Supreme Court, U.S.
FILED

No. 10-66

JUL 7 - 2010
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In the
Supreme Court of the United States

CONNIE WATKINS,

Petitioner,

v.

STATE OF ARKANSAS,

Respondent.

On Petition for Writ of Certiorari to the Arkansas Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Connie Watkins
5404 Mark Street
Paragould, AR 72450
(870) 239-4166
realart@grnco.net

Petitioner Pro Se

July 7, 2010

QUESTIONS PRESENTED

Whether a police escort, without warrant or court order, can be constitutionally 'scheduled to assist' with the agenda of a government agency', without due process rights being violated, when it is known by the police department to be action against citizens' property, and known to be an unwanted shocking surprise to the citizens?

Whether the components of 'public' and 'purpose' are required by Arkansas Code § 5-71-207(A) to be met for a lawful arrest to be made?

Whether due process is denied when police officers escort a hostile government agency to a citizen's property, inform the citizen that they cannot stop the agency from 'doing what they are going to do', and that if the citizen interferes, the citizen will go to jail, and then arrests citizen and enforces the agenda of the adversary?

Whether officers' application of the disorderly conduct statute to Connie Watkins' action of lawfully entreating the officers to help protect her property from government trespass and damage, amounted to a violation of her 1st, 4th, 5th, and 14th Amendment rights?

Whether 6th Amendment rights are violated when notice is not given pertaining to criminal actions that will be alleged at trial?

Can state court deny citizen a docketed jury trial when that right has not been waived, an in the

absence of any physical evidence that a crime has been committed?

Should a state bench trial decision be overturned on the basis of Sixth Amendment rights if the brief shows the defendant was barred from a critical 'State's Motion to Exclude' hearing, during which, malicious, unsubstantiated prosecutorial testimony effected governmental favor and the grant of which offered protection to agents from confrontation and exposure of their fraud by the defendant who was greatly injured with the resulting prejudice and who alleges ineffective defense counsel, in a complicated, political situation, not known by the defendant until after the record is submitted to the Appellate Court by the trial court?

Should the Arkansas Appellate Courts refuse to allow a timely supplemented record from state court that shows additional fraud, not discovered until a couple months after the trial, by a witness whose testimony was relied upon by the trial court for conviction and that likely determined the outcome of a trial?

Whether, when the record shows abnormal police policy, unclear statutory interpretation, and allegations of bad faith and fraud, obvious suppression of exculpatory evidence, denial of due process, abuse of discretion and process and ineffective counsel are claims on appeal, are the Appellate Courts obligated to search the record for fundamental error, to apply the Physical Facts Rule, and to consider the defense testimony and physical evidence, and not rely exclusively on the testimony relied upon for conviction?

Should the Court of Appeals affirm a conviction that was based on the defendant having 'jotted a list of talking points as to why her trees were not subject to being cut by the utility', in expectation of securing officer assistance?

Should the Courts have affirmed when the decision noted question of basis for conviction?

Should the Court of Appeals find that Petitioner's 'arguments changed on appeal', when Petitioner, as result of Sixth Amendment violations, did not know the lack of counsel in a critical hearing, and no knowledge of the prejudice or the extent until after the record was sent up, and when Petitioner attempted to bring other new issues with motions upon discovery after the trial, and when upon a close inspection, the arguments are actually preserved by the fact that the issues were or should have been apparent to the court, as shown in the Petitioner's brief?

TABLE OF CONTENTS

QUESTIONS PRESENTED i

TABLE OF CONTENTS iv

TABLE OF AUTHORITIES xi

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

INTRODUCTORY STATEMENT 4

STATEMENT OF THE CASE 5

REASONS FOR GRANTING THE PETITION .. 17

I. A decision in this case would be as important a decision 'for the people' that this Court has reviewed because it is a first impression case conviction of a citizen in the highest state court, who was arrested while questioning the officers' who escorted known government adversaries to her property, providing mandate of their malicious destruction of her property. 17

A. Petitioner's arrest and conviction were the result of bad faith, fraud and retaliatory actions of government officials, shown as filed in this Court (U.S. Supreme Court 09-1384 <App.G-23a-33a) 17

II. Only this Court can apply the broad provisions of the constitution to the complicated situations of Petitioner's case, invalidate the actions by other courts which are in conflict with the Constitution, and restore individual rights to a citizen whose position of being out of favor with the local government was labeled crime, deserving of punishment. 19

A. Arkansas Appellate Courts have invalidated the purpose of Arkansas Code § 5-71-207, the Disorderly Conduct Statute, and have criminalized civil rights and civil liberties. 20

B. The trial Court and Arkansas Appellate Courts have construed the Arkansas Code 5-71-207 against the Constitution, and any decision against the Petitioner under that interpretation should be annulled. 21

C. Arkansas Appellate Courts have established policies of 'lawful crime' and 'illegal rights' 22

D. Governmental Interests were in control of the arrest and the Prosecution 23

E. The Arkansas Courts' validation of the Circuit Court's willing fraud on the court, has set a precedent, in conflict with the Constitution, against Petitioner in the trial courts in Paragould and Greene County Arkansas and BILLS OF ATTAINDER have been made against her. 25

III. Arkansas Appellate Courts Decisions on federal issues are in conflict with its own decisions, decisions of other state courts of last resort, decisions of this Court. 28

IV. Constitutional Issues Are Preserved For Appeal. 34

CONCLUSION 36

APPENDIX

Appendix A: Opinion, Arkansas Court of Appeals, No. CACR 08-1285 (January 27, 2010) 1a

Appendix B: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (December 9, 2009) 15a

Appendix C: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (August 26, 2009) 17a

Appendix D: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (June 15, 2009) 19a

Appendix E: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (May 13, 2009) 21a

Appendix F: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (December 10, 2008) 23a

Appendix G: Letter Order, Supreme Court of the State of Arkansas, No. CR 10-152 (April 8, 2010) 25a

Appendix H: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (March 3, 2010) 27a

Appendix I: Letter Order, Supreme Court of the State of Arkansas, No. CR 09-401 (May 7, 2009) 29a

Appendix J: Motion to Supplement the Record, Court of Appeals of the State of Arkansas, No. CACR 08-1285 (February 5, 2009) 31a

Appendix K: Motion to Request Oral Argument/Brief in Support of Motion, Court of Appeals of the State of Arkansas, No. CACR 08-1285 (June 29, 2009) 33a

Appendix L: 1Motion that Appellant's Supplemented Tendered Record Submitted Timely to the Court

with Deemed Denial of a Motion for a New Trial, be Filed as a Timely Appeal with Supplement Record and 2Motion for Review of the Situation Surrounding the Refusal of the Clerk to File Papers Timely Submitted and Separation of a Rule on the Clerk from an Accompanying Error of Coram Nobis , Court of Appeals of the State of Arkansas, No. CACR 08-1285 (November 13, 2009) 46a

Appendix M: Appellant's Petition for Review, The Supreme Court of Arkansas (February 15, 2010) 53a

Appendix N: *It is a tree, or a club-toed frog foot?* by Connie Watkins published on May 25, 2003, Paragould Daily Press 58a

Appendix O: Letter to William B. Fisher from Donis B. Hamilton, dated November 16, 2006 ..... 62a

Appendix P: Letter to Donis Hamilton from William B. Fisher, dated November 17, 2006 ..... 64a

Appendix Q: 'List of Reasons...' Prepared by Petitioner on Nov 27 2006 (Fold-out Exhibit, 1 p.) 66a

Appendix R: Transcript of November 28, 2006 Connie Watkins' arrest 67a

Appendix S: Nov 28 2006 Police/Dispatch & Police/Police Radio Transcripts and Times 80a

Appendix T: Radio Log Report 83a

Appendix U: Paragould Police Department Incident Report 88a

Appendix V: Paragould Police Department Incident Report 91a

Appendix W: Petition and Complaint, In the Circuit Court of Greene County, Arkansas, No. CIV-2006-335(H) (December 6, 2006) 93a

Appendix X: Letter to Kimberly Dale from Connie Watkins, dated November 21, 2007 ..... 96a

Appendix Y: Letter to Kimberly Dale from Connie Watkins, dated November 24, 2007 ..... 99a

Appendix Z: State's Incomplete Transcript of November 28, 2006 Arrest .. 102a

Appendix AA: Prosecutor Kimberly Dale's Office September 28, 2007 Police Calls, FOIA Request September 30, 2009 No. 20, Screen (Fold-out Exhibits, 2 pp.) . . . 110a

Appendix AB: Letter to the editor, by Connie Watkins 111a

Appendix AC: PLWC's photos of Watkins' Sign, FOIA Request September 30, 2009, Nos. 1, 4 and 5 . . . . . 115a

Appendix AD: November 27, 2006 Photo of Watkins' Fence Row Trees . 119a

Appendix AE: Bill McCartney's Witness Statement (Fold-out Exhibit, 1 p.) 120a

TABLE OF AUTHORITIES

CASES

Anderson v. State,
353 Ark. 384, 108 S.W.3d 592 (Ark. 2003) . . . 26

Brady v. Maryland,
373 U.S. 83 (1963) 25

Bush v. State,
90 Ark. App. 373, 206 S.W.3d 268 (2005) 30

Chaplinsky v. New Hampshire,
315 U.S. 568 (1942) 26

Cox v. Louisiana,
379 U.S. 536 (1965) 19

Davis V. Alaska,
415 U.S. 308 (1974) 31

Foucha v. Louisiana,
504 U.S. 71 (1992) 18

Gentile v. State Bar of Nevada,
501 U.S. 1030 (1991) 30

Gooding v. Wilson,
405 U.S. 518 (1972) 18, 19

Hamdi v. Rumsfeld,
542 U.S. 507 (2004) 18

Hammond v. Adkisson,
536 F.2d 237 (8th Cir. 1976) 26

Hartman v. Moore,
126 S. Ct. 1695 (2006) 18

In re Winship,
397 U.S. 358, 25 L. Ed. 2d 368, 90 S. Ct. 1068
(1970) 28, 29

Jackson v.Virginia,
443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560
(1979) 29

Johnson v. State,
70 Ark. App. 343, 19 S.W.3d 66 (2000) 26

Lewis v. City of New Orleans,
415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d 214
(1974) 19

Lopez v. United States,
373 U.S. 427, 83 S.Ct. 1381, 10 L.Ed.2d 462
(1963) 32

Lucas v. State,
520 S.W.2d 224 (Ark. 1975) 19

McKim v. State of Arkansas,
2009 Ark. App. 834 (2009) 29

Newton v. Tidd,
94 Ark.App. 368, 231 S.W.3d 84 (2006) 30

Pointer v. Texas,
380 U.S. 400 (1965) 31

Smith v. Illinois,
390 U.S. 129 (1968) 32

Speiser v. Randall,
357 U.S. 513 78 S.Ct. 1332, 2 L.Ed.2d 1460 (1958) 28

United States v. Carll,
105 U.S. 611 (1881) 22

United States v. Cruikshank,
92 U.S. 542 (1876) 22

United States v. Frost,
234 F.3d 1023 (8th Cir. 2000) 31

United States v. Narciso,
446 F. Supp. 252 (E.D. Mich. 1977) 33

United States v. Payne,
119 F.3d 637 (8th Cir. 1997) 31

Urquhart v. State,
30 Ark. App. 63, 782 S.W.2d 591 (1990) 30

United States v. White,
401 U.S. 745 (1971) 32

Wilkinson v. Austin,
545 U.S. 209 (2005) 29

Wood v. United States,
342 F.2d 708 (8th Cir. 1965) 33

CONSTITUTION

U.S. Const. amend. I 2

U.S. Const. amend. IV 2

U.S. Const. amend. V 3

U.S. Const. amend. VI 3

U.S. Const. amend. XIV, § 1 . . . . . 3, 29

STATUTES

Arkansas Code § 5-71-207 . . . . . 20, 21, 22, 23

Arkansas Code § 5-71-207(A) 7

Ark. Code Ann. § 5-71-207(a) (Repl. 2006) 4

Ark. Code Ann. § 5-71-207(a)(3) 18

Ark. Code Ann. § 16-81-106(c)(1) (Repl.2005) . . . 18

Ark. Code Ann. § 16-91-113(a) (1987) 3, 19

RULES

Ark. R. Evid. 103(d) 26

OPINIONS BELOW

The opinions below by the Arkansas Appellate Courts are contained in the Appendices to this Petition. The Petitioner is unaware of any of the opinions having been reported or published other than reporters selecting parts for publication in newspapers and the internet'; The May 7, 2009 Letter Order, Supreme Court of the State of Arkansas, No. CR 09-40, is reproduced at App. **I**; the Letter Orders of the Arkansas Court of Appeals, No. CACR 08-1285 are reproduced as stated: January 27, 2010 at App. **A**; December 9, 2009 at App. **B**; August 26, 2009 at App. **C**; June 15, 2009 at App. **D**; May 13, 2009 at App. **E**; December 10, 2008 at App. **F**; The March 3, 2010 Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 is reproduced at App. **H**. The April 8, 2010 Letter Order, Supreme Court of the State of Arkansas, No.CR 10-152, is reproduced at App.**G**.

JURISDICTION

The judgment of the following decisions of the Arkansas Supreme Court and the Arkansas Court of Appeals is sought. The May 7, 2009 Letter Order, Supreme Court of the State of Arkansas, No. CR 09-40, is reproduced at App. **I**; the Letter Orders of the Arkansas Court of Appeals, No. CACR 08-1285 are reproduced as stated: January 27, 2010 at App. **A**; December 9, 2009 at App. **B**; August 26, 2009 at App. **C**; June 15, 2009 at App. **D**; May 13, 2009 at App. **E**; December 10, 2008 at App. **F**; The March 3, 2010 Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 is reproduced at App. **H**. The April 8, 2010 Letter Order, Supreme Court of the State of Arkansas, No.CR 10-152, is reproduced at App.**G**. The authority

of the U.S. Supreme Court derives from Article III of the U.S. Constitution. Its jurisdiction is set out by statute in Title 28 of the U.S. Code. Because the Arkansas Court of Appeals and the Arkansas Supreme Court have not allowed the rights granted by the Constitution, by interpreting the Constitutional provisions Petitioner, she can petition the U.S. Supreme Court to hear her case under Rule 10(b) and (c). Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 2102. This petition is timely under 28 U.S.C. § 2101 (d) and Supreme Court Rule 13.1 and Rule 13.3

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Fourth Amendment [U.S. Constitution]

'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.'

Amendment V

nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment XIV Section 1.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Arkansas Code Annotated section 16-91-113(a) (1987) provides that matters not briefed and argued by the appellant can be reviewed by the Supreme Court in: (1) cases where the trial judge made an error of which the appellant had

no knowledge; (2) cases where the trial judge neglected his or her duty to intervene; and (3) cases involving evidentiary errors which affected the appellant's substantial rights. *See* Ark. R. App. P. -- Crim. 10.

Arkansas Code Annotated section 5-71-207(a) (Repl. 2006) provides, in pertinent part: A person commits the offense of disorderly conduct if, with the purpose to cause public inconvenience, annoyance, or alarm or recklessly creating a risk of public inconvenience, annoyance, or alarm, he or she:

(1) Engages in fighting or in violent, threatening, or tumultuous behavior;
(2) Makes unreasonable or excessive noise; [or]
(3) In a public place, uses abusive or obscene language, or makes an obscene gesture, in a manner likely to provoke a violent or disorderly response.

INTRODUCTORY STATEMENT

This brief references the words spoken on November 28, 2006. The Petitioner's Defense Exhibit 1 **(Add 103)** was the recording of the arrest as recorded by Officer Jaree Johnson. Defense Exhibit 2 **(Add 104)** is the Petitioner's transcript of the arrest tape and is reproduced at **App.R - 67a – 79a**. Statements made in court are denoted **R** or **Ab**. The Petitioner also references **(U.S. Supreme Court 09-1384) (U.S. Ct.)** and points only to Appendix documents within that brief filed on May 11, 2010. Further Petitioner believes that every sentence, herein tells of violations against her right to be free from false

arrest and false conviction that she stated in court and in her appeal brief **2a-3a**.

STATEMENT OF THE CASE

(U.S. Supreme Court 09-1384 <App.G-23a-33a)

Paragould Light Water and Cable (PLWC) and contracted Crafton Tree Service, Inc. (CTS) had destroyed trees on the Watkins' property prior. **R403, 417-418**; **App.71a.** Petitioner Connie Watkins, in 2003, had publicly criticized PLWC's practice of tree destruction **App.N** Having PLWC utility lines over their property on both the north and south sides, the Watkins had an agreement with PLWC since 2003 that the Watkins would do their own trimming on the fence row trees on the south (back) side of their property **119a**. The Watkins kept a greater distance than the requested 5' from the lines", with proper pruning methods **72a**.

In April 2006, PLWC attorney, Donis Hamilton prejudiced surveyor Bradley Hancock with false allegations that the city had restraining orders on Connie Watkins and then instructed Hancock to 're-establish' the Watkins' 28 year property**(U.S. Ct.<22a**¶380-381). After obtaining the fraudulent survey of the Watkins' lot **Add 114**, PLWC CEO Bill Fisher obtained a fraudulent easement and permission to cut the Watkins' trees from a woman who no longer owned the property adjacent to the Watkins' lot **Add 115**. Following the pattern of 'fraud on the Watkins', PLWC supervisor Bill McCartney and CTS vice president, Jake Crafton, created fraudulent accusatory letters against Petitioner **(U.S. Ct.<22a-24a)**, and **App.K**

On November 16, 2006, twelve days before Petitioner's arrest, PLWC Hamilton, after viewing the fraudulent letters, reasoned with PLWC Fisher not to take Petitioner to court 'at this time', that any trimming needed on the Watkins' trees had been completed **App.O.** Fisher acknowledged and stated that PLWC 'would take no action at this time' **App.P.** The Watkins received a message from Bill McCartney, late afternoon, on November 27, 2006 that 'something would be done the next morning to the trees'. Connie Watkins returned the call to object to any cutting of the well-pruned trees. McCartney stated, "Eight o'clock in the morning", refused to talk with Mrs. Watkins and hung up on her. **R398** After leaving a message with Bill Fisher that the trees were fine and that she had tried to explain that to McCartney, Connie Watkins called the Paragould Police Department (PPD) the night of November 27, 2006 to ask for police help in protection of their rights and property. Petitioner wrote a list of situations that would prohibit PLWC from any action against the Watkins' property **App.Q**. That same night Officer Mike Tinnin was called into a meeting by a supervisor who 'explained what needed to be done and how to do it'. The Lieutenant told Tinnin that PLWC had talked to the chief and the mayor **Ab 41-42** and that Officer Johnson **R171** and Tinnin were to 'be there at 8:00' **R255; Add.123** to 'make sure' that PLWC got to execute **Ab 51-52, 54** its agenda on the Watkins' property and cut the Watkins' trees **Id.**. PLWC false accusations of 'prior problems with Mrs. Watkins' was 'reason' for the police to assist the utility **Ab 9, 10** and**43**. Richard Watkins called the PPD at 7:30 on November 28, 2006 and asked for the police protection of property. **R398-399; Add.112.** Two police cruisers drove past Richard Watkins as he waited on the front

drive at about 7:50 **80a; Add 123**. The officers knowingly passed him by **R256** and drove around to the field in back of the property **Id.** and continued to refuse discussion with Mr. Watkins **R292**. At 7:54:25 Officer Johnson radioed Officer Tinnin that she saw a bucket truck coming **81a**. Connie Watkins was not present at the time the officers arrived. **R 173, R341, R373-375.** Following the police to the Watkins' property was a convoy of three white pickups driven by officials Bill McCartney and Frank Curtis from PLWC, president and vice president of CTS., Frank Crafton and Jake Crafton and CTS supervisors, and next were two bucket trucks with shredders attached. **R375, 418.** McCartney shoved papers **Add 114,115** into the chest of Richard Watkins without answering Mr. Watkins' questions about the purpose and authority of pending actions. **R379.** Officers and Bill McCartney talk at the beginning of the defense arrest tape at 7:58 **67a**, who instructed them wrongly concerning property line, utility easement and utility rights **68a** Connie Watkins returned home and walked out of her door at 7:58 carrying her camera, eyeglasses an armload of pictures with intent to show officers a list of 'important reasons that the Watkins needed police protection' from PLWC **AppQ, AppR; R302-303,R401,404**. About a dozen men with hard hats were standing silent and unmoving, with the same spread-legged, crossed-armed stance about 30' behind her property line, single filed, spanning a stretch of about 100'. Petitioner quietly joined her husband **R375** and when Officer Tinnin and Officer Jaree Johnson approached the Watkins Mr. Watkins' asked, "They aren't going to start before I get this read are they?" **68a** Officer Tinnin then spoke to Mr. Watkins, at 7:59 a.m. **Id.** for the first time, saying, "They're gonna start cutting." **Id.**. Steady engaging discussion continues between the

officers and we Watkins until 8:01:30 **74a** at which time Tinnin states the arrest -"We're done...You take her out of here".

Before November 28, 2006, Petitioner's Criminal History Report consisted of a 6/13/2002 speeding ticket that had been dismissed without a fine. **Add.15.**

Petitioner had on at least six occasions after the arrest attempted to speak with the PPD Chief J.D. Stephenson. **APP**

On December 6, 2006, PLWC filed a suit in civil court (CIV-2006-335) requesting an injunction against Richard and Connie Watkins for 'interfering with line clearance' **App.W**; **(U.S. Ct.<27a** ¶ 401).

A motion for a Brady Discovery was filed by defense attorney on June 29, 2007 in District Court of Greene County. **Add 19.** Petitioner was unaware of the filing of 'motion to suppress' by defense counsel, as she had demanded 'full disclosure of all facts'. No notice was received from the prosecution and Connie Watkins did not know the charges against her that were supposed to show violation of the statute of disorderly conduct when she went to trial was held on July 16, 2007. **(U.S. Ct.<28a**¶405-407).The prosecution relied partially on the testimony of Bill Fisher who deceived the court with 'official documents' including easements and surveys' not pertaining to the Watkins' property **(Id.** ¶408) and who promoted the fraudulent 'basis' that 'necessary tree trimming' was the 'reason' that police were sent to Petitioner's property on November 28, 2006 and that Petitioner had caused 'prior problems' **(Id. 29a** ¶409-410). Officers Johnson and Tinnin and Jake Crafton, testified similarly with each

other **(Id. 29a ¶ 412-414)**. A couple of weeks after the Court took the case under advisement **(Id. 30a ¶ 415-416)**, Mrs. Watkins was found guilty in a written verdict, entered on August 3, 2007, stating the authority, rights and position of PLWC. **Add 7.**

Petitioner filed a notice of appeal in Circuit Court on August 13, 2007. **Add.13.** A jury trial was set for October 29, 2007. Various continuances were secured by defense counsel which Petitioner refused. Two continuances were not signed by Petitioner. **Add.29, 30, 61.**

Eventually subpoenas were served by the defense to: Jake Crafton; Surveyor Hancock; PPD Captain Todd Stovall; Chief J.D. Stevenson; PLWC Frank Curtis and Bill McCartney (PLWC) to appear in court on September 16, 2008. **Add 62,66,70,74,77,81.** Defense filed a motion for Discovery. **Add 85.** Defense Counsel refused to have Bill McCartney present for the trial.

Petitioner was never informed of the charges that would be made against her **R163**. She had entreated the new defense counsel to find out what the accusations were going to be, but he only stated, "They won't go in a lie in circuit court like they did in district court". Petitioner had provided U.S. case law and clear evidence of fraud by the government parties to defense counsel for submission to the Court on constitutional issues surrounding her arrest that he refused to include them in the case. He stated that he didn't want to show perjury and bad faith, just to do it. I asked him to do it to show the truth, that I was innocent and that my constitutional rights had been violated.

Petitioner did not waive her right to a jury trial.

A court deputy physically barred Petitioner, at the gate, from approaching to hear the arguments which were quietly exchanged in a private State's motion in limine to exclude on September 15, 2008 **Ab 1-15; Add 55**, though Petitioner had instructed counsel that she wanted to be present at the hearing and included in each aspect of her trial.

The court granted the motion that would prevent the Petitioner from producing evidence or question witnesses concerning a survey that had been installed by PLWC on the Watkins' lot and which was removed at the time of the trial **Add.114**, easement **Add.115**, the cutting of trees, tree damage, or property line. The prosecutor gave defense counsel some papers, the first of discovery **Ab 13-15** which included examples of Petitioner's exercise of First Amendment rights **App.AB**

On cross examination Tinnin admitted having falsely 'testified on direct that he had put incriminating evidence in the incident report', then stated, "This report that I prepared **Add.16** does not indicate anywhere in this that Mrs. Watkins ever cursed or used cuss words." He stated that a very important part of what he was testifying about was the cursing, and that the State's tape is devoid of any cuss words **R280; Add 98,99.** He admitted that there was no mention by him or Officer Johnson telling Mrs.Watkins to stop rushing at or to stop threatening anyone, or to stay out of a particular area and that it was correct that none of those things were contained in the police report, incident report or arrest report. **Ab 61;Add.16.** Tinnin admitted that he had not noted

in any record that Mrs. Watkins had committed the actions attributed to her by State's witnesses **Ab.61.** He stated that he could not explain the fact that with everything 'that went on' how there could be no recording, 'unless the tape itself is partial' **R282**, and that, "The following days I figured out really quick that this was an issue, and I probably should've put more in there 'what they might want to have seen'..." **R276**

Jake Crafton testified when he arrived, the police were already there and that Petitioner was not on the scene **R341**. He stated that his three vehicles were parked 50'to 75' from the police officers and that the police officers stayed with the police vehicles **R343**. He stated that it takes about five minutes to set up a jobsite. and that several times Petitioner approached him and several employees **R337** the utility, and that numerous times Petitioner entered a 'safety' or 'coned off' area and that he signaled the police, who were watching, over to get her out and that Petitioner's husband was doing it too **R335**. Crafton stated that Petitioner was hysterical and that, "that's why we had the police there," **R333** " Whenever Ms. Watkins came back over to where I was standing by my bucket truck, she proceeded to start yellin' and cussin' at, you know, cussin' at me, my employees, just anybody around". **R331-332** Crafton said, "They [officers] 'kept on asking her to get out, they escorted her out of the area and she comes right back". **R336** Crafton said, "Most of the time as the police were walking toward me, she was still cussing me and my workers. I did not hear her cuss the police, though" **R346** and "One [officer] had the husband most of the time, and the other one was takin' care of the lady...This area where these people were separated, well, maybe the husband's over

here and maybe the wife's over there with the other police officer, they're gonna be some quite some distance away. They weren't together – I don't remember them being together hardly any during that morning **R347-348**. Crafton testified that he had 'specifically' said that 'they' told her she couldn't be in the zone area **R347** Crafton testified that though back earlier he had testified on July 16, 2007, that Petitioner was out there for 30 minutes **R346**, he believed the Petitioner could do all the activities that he testified to in two to five minutes and that he had 'seen fights that occur in two minutes' **R339**. Crafton stated that Petitioner charged at, "just my employees, only, two, maybe three, two – no, just two, it's just two 'cause the third one didn't come there until after she was arrested – that's two, countin' myself" **R341**.

The Watkins' testified, entering the recording of discussion on November, 28, 2006, which contained the first one minute and 50 seconds of discussion between the officers and the Watkins, which was missing from the State's arrest tape, and police record evidence that established a two minutes and fifty second time-line between the time the officers approached the Watkins, 7:58:40am **68a** and Officer Tinnin's arrest announcement at 8:01:30am **74a; App R; Add 118,119,120,123,124**.

Counsel refused to put the Petitioner's subpoenaed witnesses on the stand, when it was near 5:00 and the Court offered that he rest **Ab.106** Counsel informed Petitioner that he was going to sent the PLWC surveyor, Brad Hancock, home. He had told the Court that the surveyor was at the trial to testify about the incorrect survey PLWC had on the Watkins' lot at the

time of Petitioner's arrest **(U.S. Ct.<30a¶419-429); R141**

Petitioner was found guilty with the reading of a lengthy recital of Prosecution testimony **Ab128-134.** Connie Watkins filed a timely Notice of Appeal and Designation of Record in the Circuit Court, appealing to the Arkansas Court of Appeals, appealing from the conviction and sentence entered by the Circuit Court on September 17, 2008. **Add.95.**

On December 10, 2008, the Court of Appeals denied my Motion to Correct the Record that had been sent up by the Greene County Circuit Court before I obtained a copy of the record for inspection.

On February 5, 2009, I filed a timely Motion to Supplement the Record with newly discovered evidence of fraud **App.J; (U.S. Ct.<36a¶440)** that had occurred before my arrest and conviction and unduly prejudiced me and caused my conviction, but which I was unaware, and the motion for a new trial that was filed in the trial court which was subsequently deemed denied by the trial court. On February 25, 2009, the motion was denied.

On March 16, 2009, I timely filed my brief in the Arkansas Court of Appeals (CACR 08-1285).

On April 15, 2009, my Rule on the Clerk and Writ of Error Coram Nobis were received by the court. I had been told by the Clerk not to assign my case number to the document, but had been assured by the clerks that the documents would be considered together. However, the documents were separated, with motion for rule on the clerk being assigned to the Arkansas

Supreme Court as **CR 09 00401** and the error of coram nobis being assigned the Court of Appeals CACR **08-01285** appeal case number.

The Rule on the Clerk referred to exhibits attached to the Error of Coram Nobis demonstrated that the rules and justice allowed the supplemented certified record contained in the writ and that it would show abuse of process and lack of basis for arrest and the violation of sixth amendment rights and protections. The Rule on the Clerk was denied on May 7, 2009. **App.I**

The Error of Coram Nobis included the certified supplemental record and detailed the fundamental error in the Circuit Court bench trial with the suppression of exculpatory evidence and fraud which I did not become aware of until after my conviction. The record described and supported facts that 'fit the compelling circumstance requirement for which the writ is allowed to achieve justice and to address errors of most fundamental nature, and it asked that my conviction be reversed and that a jury trial which was denied without waiver be granted, or that the supplemented record which included the evidence of the fraud be consolidated with CACR 08 01285 for the Court to consider. The Error of Coram Nobis was denied on May 13, 2009 **App.E**.

On June 15, 2009, a letter notified me that my request for oral argument had been received, along with a statement how the process would be conducted. On June 16, 2009, my oral request was denied.

On June 29, 2009, I filed a motion and brief in support, requesting oral argument **App.K**, citing

particulars of government oppression and conspiracy to arrest and convict, fraud and other bad faith by police officers known and suppressed by prosecution, the denial by the bench trial court of Sixth Amendment rights, the unequal and unfair weight given by the Court to the testimony of prosecution that was in total contradiction to physical evidence, the denial of due process and fundamental fairness by the Court in its finding of guilty when the state failed to prove any of the elements of the crime with which I was charged, the confusion and misunderstanding of the court in not granting the Rule on the Clerk and the Writ of Error Coram Nobis, the fact that malicious, constitutional violation resulted in my arrest and conviction while I was innocent, and the need to avail myself to answer questions by the judges.

On August 26, 2009 my motion for oral argument was denied, but one judge, 'Marshall, J., would grant."**App.C**.

On November 13, 2009, I filed a Motion that my supplemented timely tendered record with Circuit Court's deemed denial of my motion for a new trial, etc, **App.L**, be timely filed. The motion was denied on December 9, 2009.

On April 14, 2009, Appellee brief quoted the false court room testimony of prosecution and its witnesses from the record.

On June 12, 2009, I filed a Reply to Appellees Brief, refuted allegations, demonstrated preservation and automatic right to assert constitutional violations and restated the facts, that objections below to the extent of the fatal Sixth Amendment violation against me,

had not been possible in that they were unknown by myself.

On January 27, 2010, the Arkansas Court of Appeals majority affirmed **App.A** The decision noted the constitutional issues of Petitioner's appeal, recited words of the Circuit Court and Appellee's brief, accepted the authority of PLWC, and noted that Petitioner told Officer Johnson that PLWC did not have the right to trim the trees.

On January 27, 2010, Judge, J. Hart delivered a dissenting opinion, with footnote, which stated that the opinion by the majority has criminalized "body language". **13a-14a**

On February 15, 2010, I filed a petition for rehearing, which is reflected in this brief, and a petition for review **App.M**.

On March 3, 2010, my petition for rehearing was denied **App.H**.

On April 8, 2010, my petition for review was denied. **App.G**.

REASONS FOR GRANTING THE PETITION

I. A decision in this case would be as important a decision 'for the people' that this Court has reviewed because it is a first impression case conviction of a citizen in the highest state court, who was arrested while questioning the officers' who escorted known government adversaries to her property, providing mandate of their malicious destruction of her property.

A. Petitioner's arrest and conviction were the result of bad faith, fraud and retaliatory actions of government officials, shown as filed in this Court (U.S. Supreme Court 09-1384 <App.G-23a-33a)

The intention of Paragould Light and Water Commission (PLWC) was to take Petitioner to court letters **App.O** because of her exercise of First Amendment rights **App.N** There was no reason for officers or PLWC to go to the Watkins' property on November 28, 2006 **App.O** as the trees had been trimmed by the Watkins according to agreement with PLWC and standard. **App.AD** Petitioner was marked and set up for arrest by PLWC and its agents as shown in Richard and Connie Watkins' petition for certiorari filed in this Court (**U.S. Supreme Court 09-1384**) after some of the same Plaintiff parties as here, to keep government agents responsible for Petitioner's arrest from going to trial for violations of the Watkins' rights, unjustifiably removed from state court to federal court without jurisdiction, confused issues, and effected fraudulent dismissal of viable claims in the Arkansas Court or Appeals.

The officers' were given orders to execute a plan against the Petitioner's property and to keep her from interfering, and the Officer's confrontational attitude, the lack of need for investigation, and immediate threat of jail show that the plan did not exclude arresting the Petitioner. **R282-292;Add 105**. The record shows no probable cause for my arrest.**R302-315**; **App.R; Add.123,124**. Officers stated that they talked PLWC before speaking with the Watkins **R292**. There is no reason to speak with the Petitioner first. **R174, 292**.

The "most elemental" of the liberties protected by the Due Process Clause is "the interest in being free from physical detention by one's own government." *Hamdi* v. *Rumsfeld*, 542 U. S. 507, 529 (2004) (plurality opinion); see *Foucha* v. *Louisiana*, 504 U. S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause").

"As a general matter, this Court has held that the First Amendment prohibits government officials from subjecting an individual to retaliatory actions, including criminal prosecutions, for speaking out. *Crawford-El* v. *Britton*, 523 U. S. 574 ." See also *Hartman v. Moore*, 126 S. Ct. 1695 (2006), the absence of probable cause tends to suggest that retaliatory animus motivated the prosecution.

The Court of Appeals has entered a decision that is in conflict with *Gooding v. Wilson*, 405 U.S. 518, 524 (1972) holding: Such language, in order to fall outside the protection of the First Amendment, must "have a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed,", and

it must produce a likelihood "that the person addressed would make an *immediate* violent response." *Id.* at 528 (emphasis added).

The record shows Petitioner's speech on November 28, 2006 **67a-79a** did no more than 'strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea that PLWC had no right to take action against the Watkins' property that day' Petitioner's words are protected on the same principles as those questioned in *Lewis v. City of New Orleans*, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d 214 (1974), *Gooding v. Wilson*, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d 408 (1972), *Lucas v. State*, 520 S.W.2d 224, 227 (Ark.1975) and *Cox v. Louisiana*, 379 U.S. 536 (1965).

II. Only this Court can apply the broad provisions of the constitution to the complicated situations of Petitioner's case, invalidate the actions by other courts which are in conflict with the Constitution, and restore individual rights to a citizen whose position of being out of favor with the local government was labeled crime, deserving of punishment.

This Appellant requests review on all three points of exception pursuant to Arkansas Code Annotated section 16-91-113(a) (1987) as stated in the Statutory Provisions, which allows matters not briefed and argued to be reviewed by the U.S. Supreme Court in the case of situations such as this.

Defense' testimony included sixty clear affirmative descriptions of lawful socially accepted efforts and

argument that we utilized in attempting to receive equal protection and due process from the officers, and the naming of 28 police actions against our personal and property rights as well as details of gathering police records, time line computation and descriptions of the threatening atmosphere created by PLWC and the PPD. (R 397–437 [esp. **405-422**]). Petitioner's testimony, both under direct and cross, shows my innocence of any crime.

A. Arkansas Appellate Courts have invalidated the purpose of Arkansas Code § 5-71-207, the Disorderly Conduct Statute, and have criminalized civil rights and civil liberties.

In her Court of Appeals Dissenting Opinion, Judge Hart, wrote (in relevant part):

> "Today's opinion has criminalized "body language," uttering a sibilant expletive –the woman said Shit! And walking on a person's own property...Moreover, I cannot ignore the fact that this case involved a warrantless misdemeanor arrest. That means that the act complained of had to be committed in the presence of the arresting officer. Ark. R. Crim. P. 4(a)(iii); Ark. Code Ann. § 16-81-106(c)(1) (Repl.2005). Further, this case is unusual in that the arresting officer made an audio recording of everything that transpired. The majority had not only the tape itself, but a complete transcript. Yet, the majority credits, and quotes at length, testimony that was belied by the audio tape and conduct that was not observed by the arresting officer".

13a-14a In a footnote **14a**, Judge Hart states:

> "The majority's contention that the audiotape was "unintelligible" is misguided. This assertion is belied by the fact that the State was able to produce a transcript of her remarks. While there is some background noise on the tape, Ms. Watkins remarks are clear. I concede that great deference is given to the trial court's determination of a witness's credibility, that deference is not absolute. The supreme court has stated that it will not rely on testimony that is "inherently improbable, physically impossible, or so clearly unbelievable that reasonable minds could not differ thereon."

B. The trial Court and Arkansas Appellate Courts have construed the Arkansas Code 5-71-207 against the Constitution, and any decision against the Petitioner under that interpretation should be annulled.

The trial Court erred in revising the applicable language of the statute because a statute may not be revised or reworded by a Court in order to make it conform to the Court's interpretation of the statute's intended effect or for purposes of creating a way to punish the legal dissent of a Defendant.

The trial Court's only comment directly pertaining to an element of Arkansas Code 5-71-207 was with regard to 'purpose'. The Court stated that petitioner, "intended to cover the items on the list", and that intent is sufficient..She was there 'intentionally, and that is sufficient with regard to the purpose **R498-499**. Petitioner had testified that she had 'jotted down

reasons that PLWC should not cut the Watkins' trees' **R417**. The trial Court relied on *Walker v. State* which is a 1912 case in which a defendant had unlawfully carried a pistol, and which has no relevance to this case **R499**.

The trial Court's vagueness and failure to state any finding that related directly to a necessary part of the Arkansas Code 5-71-207 disorderly conduct statute in Petitioner's conviction **R.37-500,** permitted the majority, in affirming, to state that the trial court 'appears' to have convicted Watkins under Arkansas Code Annotated section 5-71-207(a)(3)" **App.A**. The Appellate Courts allowed the Circuit Court to totally disregard the necessary component of 'public'. It had been proven that 'it' was not a public place. **R309-310,R486** and that is also show by **119a**

"In an indictment ... it is not sufficient to set forth the offense in the words of the statute, unless those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished." *United States v. Cruikshank* 92 U.S. 542 ((1876) Vague wording, even if taken directly from a statute, does not suffice. *United States v. Carll,* 105 U.S. 611 (1881).

C. Arkansas Appellate Courts have established policies of 'lawful crime' and 'illegal rights'

The Petitioner had called the police department, asking for property protection and thought that she had the right, therefore, to step out and have discussion. She had made a list of talking points the

evening prior, upon notice that action by a government adversary was to take place on her property the next morning at '8:00'. The officers as it turned out, did not know that she had called, and stated that they had been notified by Paragould Light and Water Commission and stated that the utility was going to do what they came to do and she would 'go to jail' if she interfered. She did not interfere, but was arrested as stated, and the officers had all confidence because their superiors had ordered the action against the Petitioner.

The Courts have validated a police department's violation of the constitution in order to prevent such an out-of-favor citizen from legally protesting illegal destructive government action against her property. This by condoning the trial Court's misuse of the unambiguous statute, Arkansas Code **5-71-207**, wherein the Court found the lawful act of 'preparing a list of concerns about which to speak with an officer' to be sufficient with regard to the 'purpose' element of the statute.

D. Governmental Interests were in control of the arrest and the Prosecution

The 11/28/2006 arrest report **App.U** was the original report that stated PLWC Bill Fisher was the 'complainant'. After the PPD accepted a 'witness statement' from Bill McCartney**120a**, an altered report without Fisher's name was created.

PLWC Attorney, Donis Hamilton managed the frivolous suit against the Watkins and entreated various attorneys to join in his harassment of Connie Watkins, suggesting to the Municipal League

Attorney, after Petitioner was convicted in circuit court to 'further set out the conviction of Connie Watkins' **(U.S. Ct.<34a**¶435) When Surveyor Hancock withdrew the fraudulent survey, Hamilton contacted him (Id. ¶417-418).

While Prosecuting the Petitioner, Dale was also a city attorney for the City of Paragould which has a case, now **(U.S.Supreme Court 09-1384)** involving the Petitioner, wherein Dale 'consulted on the case numerous times...and exchanged documents and things of that nature' **R295-299** with the Municipal League Attorneys and with PLWC attorney Donis Hamilton, whose unsubstantiated malicious agenda Dale used to bias the trial Court **R 141,R148-149,R155,R180-181; (U.S. Ct.<31a**¶423-435)

The prosecution team had full knowledge of the two minute and fifty second time-line as the prosecutor had a copy of the dispatch calls from on the morning of November 28, 2006. There is a tell-tale sign that the tape was deliberately erased to a point, where the worst thing that Petitioner said would be heard first, which is, "Oh, shit, look at these trees, get under these lines, there's not one thing that's going to cause the power outage here. Just look at these trees. We, we're taken care of them!" **72a**

At my trial, the prosecutor prejudiced the bench trial court against me with the position of PLWC, in the motion in limine hearing **R139-167** from which I was excluded, then demonstrated contempt of my exercises (after arrest) of First Amendment right to criticize the local government agencies, including PLWC, by attempting to interject the issues as 'incriminating evidence' **App.115a,116a,117a; R 423**).

The Prosecutor gave personal validations for the credibility of all three of her witnesses. **R474-475**.

After keeping out all confrontation of PLWC action against the Watkins, Prosecution stated in closing, "We are talking about a situation whether or not PLWC could or not trim those trees. That's it. That's all it was..." **R472**

In Brady this Court held "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v. Maryland*, supra, 373 U.S. 83, 87 (1963).

E. The Arkansas Courts' validation of the Circuit Court's willing fraud on the court, has set a precedent, in conflict with the Constitution, against Petitioner in the trial courts in Paragould and Greene County Arkansas and BILLS OF ATTAINDER have been made against her.

PLWC's attorney, Donis Hamilton, the prosecuting attorney in the case now before this Court, Kimberly Dale, and other local prosecutors and the attorneys for the government agencies and employees are in the continued process of creating BILLS OF ATTAINDER **(C-08-8495)** against the Watkins, illegally removing their personal property, etc. **(U.S. Supreme Court 09-1384 <31a** ¶¶ 422,430,439,441,442,444,453) with all three branches of government participating in the denial of rights.

The Petitioner appealed the Municipal Court **(C-08-8495)** Bill of Attainder, in Circuit Court and found herself before the trial court Judge of this case, who upon request, would not recuse herself. Case **CR-2010-211** was dismissed by the Court and is being appealed to the Appeals Courts of Arkansas.

Trial Court made clear that I was found guilty solely on the courtroom testimonies of Jake Crafton and officers who had come to my property at instructions of PLWC **R488-496**.

The Circuit Court reconciled all differences in testimony by finding that because defense testimony differed from that of the three prosecution witnesses, 'defendant's version is suspect'. That is not justice or fair evaluation. The fourth recognized *Wicks* exception (4) under Ark. R. Evid. 103(d) the appellate court is not precluded from taking notice of errors affecting substantial rights, although they were not brought to the attention of the trial court. Anderson v. State, 353 Ark. 384, 108 S.W.3d 592 (Ark. 2003).

The record shows that the Petitioner did not use the abusive and profane words questioned in *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942) or in *Hammond v. Adkisson*, 536 F.2d 237, 239-40 (8th Cir. 1976), or the actions questioned in *Johnson v. State*, 70 Ark. App. 343, 19 S.W.3d 66 (2000) which was relied upon by the prosecution and Appellate Court. The appellate court rejected Petitioner's First Amendment challenge in lieu of complete unquestioned acceptance of the trial Court's use of Johnson, supra to show relevance. Johnson, supra is not relevant to Petitioner's case because the First Amendment protection Petitioner needs is for the

'crime' of saying a single 's' word and that is the extent to which she called on the First Amendment for defense in her appeal.

It is an error in law that the Court of Appeals and the Supreme Court would not examine the fraud that is shown by the record as shown in my petitioner brief and in my motions filed with the clerk of the court **App.J,K,L,M.**

Each time that Appellee states or indicates that PLWC 'had the right to trim my trees' or that the reason for the police action against me was the result of a 'need to trim trees', it is abusing process and causing fraud on the court Petitioner's trees as they were on the evening of November 27, 2006 **119a** makes it clear that the force that raided her property was a 'vengeful power' that would not be stopped by the attorney's letter **62a** Petitioner's evidence was kept out of court because it shows the extreme violation of Petitioner's rights in the malicious arrest. **(U.S. S Ct 09-1384)**

Fraud on the Court of Appeals is exhibited in its finding that Petitioner's arrest "stemmed from events...in response to a request from PLWC...for a civil standby...to trim trees along the electric lines." That recited hearsay was the prosecutor's fraudulent testimony whispered in the limine to exclude hearing before the bench, but **a)** no one from PLWC testified and the only evidence concerning PLWC was that they did not have right or reason on Petitioner's property on the day of the arrest **66a; R401,417-418** and **b)** the statement was not included in the decision of the trial court. Petitioner does not believe that the testimony given by the officers that they were to go there and

make sure that PLWC got to do as they wanted **R289**, qualifies for the rights of PLWC, especially when Petitioner was 'limine' prohibited from questions about the fraudulent 'PLWC paperwork' that officers touted time and again **R174, 175, 230, 254, 257, 283, 285, 288, 303 and 304.**

The majority's decision supplemented false allegations against the Petitioner in wrongly stating that Petitioner "cursed the officers' also indicates fraud on the Appellate Court. Petitioner entreats the Court to listen to the arrest tape. She cursed no one. The dissenting opinion clearly shows that the only reason for the Petitioner to have been convicted or remain convicted is the unwillingness of those who sit in judgment to listen to the arrest tape.

III. Arkansas Appellate Courts Decisions on federal issues are in conflict with its own decisions, decisions of other state courts of last resort, decisions of this Court.

The Appellate Courts have rendered a decision in my case which is in conflict with *In re Winship* the verdict is not supported by substantial evidence or is vague; testimony of a witness is entirely irreconcilable with the physical evidence and is perjured; Sixth Amendment rights are violated in the trial; and when there are errors so fundamental that they render the judgment void if justice is to be served.

In re Winship, supra, dealt with an individual's personal liberty which we had characterized as 'an interest of transcending value' in *Speiser v. Randall*, 357 U.S. 513, 525 78 S.Ct. 1332, 1342 (1958). There, we determined that 'proof beyond a reasonable doubt'

was constitutionally required 'because of the possibility that (an individual might) lose his liberty' and because of the stigma of a criminal conviction. 397 U.S., at 363, 90 S.Ct., at 1072. The **due process clause of the fourteenth amendment to the United States Constitution** requires that a person may not be convicted in state court "except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." **In re Winship, 397 U.S. 358, 364, 25 L. Ed. 2d 368, 375, 90 S. Ct. 1068, 1073 (1970)**. In other words, the question is "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Emphasis in original.) *Jackson v.Virginia*, 443 U.S. 307, 319, 61 L. Ed. 2d 560, 573, 99 S. Ct. 2781, 2789 (1979).

The Fourteenth Amendment provides that "[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law." §1. Our cases have frequently recognized that protected liberty interests may arise "from the Constitution itself, by reason of guarantees implicit in the word 'liberty,' ... or it may arise from an expectation or interest created by state laws or policies." *Wilkinson v. Austin*, 545 U. S. 209, 221 (2005) .

In *McKim v. State of Arkansas*, 2009 Ark. App. 834 (2009), the Arkansas Court of Appeals reversed the bench trial conviction of Mr. Mckim when it found that the 'Bryant Police Department did not have the authority to make that particular type of traffic stop'. In this case, the PPD had no right to arrest.

For the Court's of Appeals to affirm, there was a need for evidence of sufficient force and character that 'will compel' a conclusion with reasonable certainty. *Bush v. State*, 90 Ark. App. 373, 375, 206 S.W.3d 268, 269 (2005).

The stand of review on appeal from a bench trial is whether the trial court's findings are clearly erroneous or clearly against the preponderance of the evidence *Newton v. Tidd*, 94 Ark.App. 368, 231 S.W.3d 84 (2006). The January 27, 2010 decision only considered the oral testimony that supported the conviction, and did not refer even once to the physical facts shown by the physical evidence submitted **R512-542; Add 103,104,110,123 and 134**

The Supreme Court has directed that, "in cases raising **First Amendment issues** . . . an appellate court has an obligation to 'make an independent examination of the whole record' in order to make sure that 'the judgment does not constitute a forbidden intrusion on the field of free expression.'" *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1038 (1991)

In the case of Urquhart v. State, 30 Ark. App. 63, 782 S.W.2d 591 (1990), The defense wished to **cross-examine the witness** concerning two instances in which the witness made false statements. The trial court did not allow the cross-examination. The Court reversed and remanded, noting that credibility was a key to the State's case and it was crucial to the petitioner's case that he be allowed to conduct as full an impeachment of the witness's credibility as the rules of evidence allow.

Motion in Limine was applied in my case to protect the government whose actions violated my due process and equal protection rights. The Sixth Amendment to the Constitution guarantees the right of an accused in a criminal prosecution "to be confronted with the witnesses against him." This right is secured for defendants in state as well as federal criminal proceedings under *Pointer v. Texas*, 380 U.S. 400 (1965). **Arg 18** I was excluded from a very critical stage in my trial where my 6th Amendments rights were violated when I was not allowed to confront or show bad faith by PLWC.

"The critical issue is the degree of unfairness of the prejudicial evidence and whether it tends to support a decision on an improper basis." *United States v. Payne*, 119 F.3d 637, 645 (8th Cir. 1997) *United States v. Frost 234 F.3d 1023 (8th Cir. 2000)* Reversed and Remanded.

> The appellate court, holding that the trial court abused its discretion in limiting the cross-examination, reversed and remanded the matter.). *Gino HILL v. STATE of Arkansas* ___ S.W.2d ___(1996). CA CR 95-1023 In limine rulings are not binding on the trial judge, and the judge may change his mind during the course of a trial. *Ohler v. US.*, 529 U.S. 753,758 (2000)

This Court in *Davis v. Alaska*, 415 U.S. 308 (1974). 415 U.S. 308 found that, "...Petitioner was thus denied the right of effective cross-examination which "'would be constitutional error of the first magnitude and no amount of showing of want of prejudice would cure it.'

Brookhart v. Janis, 384 U.S. 1, 3 ." *Smith v. Illinois*, 390 U.S. 129, 131 (1968). [415 U.S. 308, 319]

State's witness testimony contradicted its own two exhibits TO SUCH A DEGREE that the recorded discussion, in the tape's unbroken continuity, could not have taken place if even one of the three State's witnesses' two-years-after-the-arrest assertions had reflected actual happenings. In *Lopez v. United States, 373 U.S. 427, 83 S.Ct. 1381, 10 L.Ed.2d 462 (1963)*, a pre-Title III case, the [recording] device was used only to obtain the most reliable evidence possible. *United States v. White*, 401 U.S. 745, 751-52, 91 S.Ct. at 1126 (1971). In fact, as the Court noted, tape recording will often serve the ends of justice. "**An electronic recording will many times produce a more reliable rendition of what a defendant has said than will the unaided memory of a police agent.**" *Id. at 753, 91 S.Ct. at 1126.1* (emphasis added)

The physical evidence controverts all prosecutorial incriminating accusations to the point of exonerating Petitioner and demonstrates the maliciousness with which she was arrested and prosecuted.

State had no time-line or evidence to contradict the 2min and 50sec time-line to point of arrest. The trial court rejected true physical in acceptance of controverted testimony, which fell apart under cross examination with officers admitting that they made no record of criminal actions by Petitioner and that her words just referred to her trees. Defense in closing, demonstrated that the 'physical facts do not match the State's version' **R448-458**.

> The so-called "physical facts rule" is the accepted proposition that in cases where the testimony of a witness is entirely irreconcilable with the physical evidence, the testimony can be disregarded. That is, where the testimony of a witness "cannot possibly be true, is inherently unbelievable, or is opposed to natural laws," courts can declare the testimony incredible as a matter of law and decline to consider it. *United States v. Narciso, 446 F. Supp. 252, 282 (E.D. Mich. 1977)*. As stated by the Court in *Wood v. United States, 342 F.2d 708, 713 (8th Cir. 1965)*, "where undisputed physical facts are entirely inconsistent with and opposed to testimony . . . the physical facts must control. No jury can be allowed to return a verdict based upon oral testimony which is flatly opposed to physical facts, the existence of which is incontrovertibly established." *Id. at 713-14*.

Trial court based its decision to convict me solely on variant testimonies of three State's witnesses whose cohesive defamatory claims are irreconcilable with four records of physical facts, the existence of which are established by the Paragould police department. Jake Crafton's testimony is physically impossible and totally irreconcilable with the arrest tape.

> The fundamental unfairness of a conviction obtained through the use of false evidence has long been recognized by the Supreme Court. See, e.g. , Mooney v. Holohan; Pyle v. Kansas, 317 U.S. 213 (1942); See Napue v. Illinois, 360 U.S. 264, 270 (1959) Napue v. United States. As United States v. Agurs, 427 US 97 (1976) The Supreme Court has therefore imposed "a

strict standard of materiality" where the prosecution uses evidence that it knew or should have known was false. In such a case, the conviction "must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." Id. at 103.

Rule 52(b) of the Federal Rules of Criminal Procedure was drafted as a restatement of the common law. The United States Supreme Court recognized the "plain error doctrine," the common law predecessor of Rule 52(b), at least as far back as 1896. In Wiborg v. United States, Chief Justice Fuller stated that "if a plain error was committed in a matter so absolutely vital to defendants, we feel ourselves at liberty to correct it" even though the defendants in the case had not "duly excepted" to the error at trial.

IV. Constitutional Issues Are Preserved For Appeal.

The Court of Appeals decision repeated Appellee's mistaken position that the legality of Petitioner's arrest and constitutional issues were not preserved for appeal relying upon *Buford, supra,* which deals with claims about posttrial publicity and bears no similarity to this case in which constitutional issues, including First and Sixth Amendment and Due Process rights and predisposition of officers, were raised by the prosecutor **R 423-424, 472**, the Court **R 439,485-487**, prosecution witnesses **R286-292, R302-310**, defense witnesses **R368-437**, defense counsel **R139-148,150-154,161-162,441-470** and Exhibits entered by both

parties **Add 98, 99, 103,105**, in addition to the constitutional implications raised by the ruling on the motion *in limine* which prohibited relevant and exculpatory evidence and the very fact that Petitioner was excluded from a hearing that was so critical in her trial and during which she was prejudiced in the Courts' eyes when her attorney both allowed and perpetuated false allegations.

The Petitioner's brief addresses constitutional issues **Arg 1-25**, and demonstrates a manifest abuse of discretion and error by the Court in dealing with Petitioner's rights with citations to the record on appeal, supporting law and Article II, §§ 8 and 10 of the Arkansas Constitution, and the Appellate Courts should have considered her grounds stated in support of her admission of evidence and testimony in the trial court.

Defense counsel renewed a motion for directed verdict after my testimony **R440**. Further the closing argument contrasted with the prosecution testimony, raised many constitutional violations, including first amendment rights, and the failure to show probable cause according to the statute under which I was arrested **R441-470**.

The recorded arrest is evidence that preserves my right to appeal from a false arrest **App.R**.

CONCLUSION

For all of the reasons set forth above, Connie Watkins respectfully submits that the petition for writ of certiorari should be granted.

Respectfully submitted,

CONNIE WATKINS, Petitioner Pro Se

By: Connie Watkins
5404 Mark St.
Paragould, AR 72450
(870) 239-4166
realart@grnco.net

APPENDIX

APPENDIX

TABLE OF CONTENTS

Appendix A: Opinion, Arkansas Court of Appeals, No. CACR 08-1285 (January 27, 2010) 1a

Appendix B: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (December 9, 2009) 15a

Appendix C: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (August 26, 2009) 17a

Appendix D: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (June 15, 2009) 19a

Appendix E: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (May 13, 2009) 21a

Appendix F: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (December 10, 2008) 23a

Appendix G: Letter Order, Supreme Court of the State of Arkansas, No. CR 10-152 (April 8, 2010) 25a

Appendix H: Letter Order, Arkansas Court of Appeals, No. CACR 08-1285 (March 3, 2010) 27a

Appendix I: Letter Order, Supreme Court of the State of Arkansas, No. CR 09-401 (May 7, 2009) 29a

Appendix J: Motion to Supplement the Record, Court of Appeals of the State of Arkansas, No. CACR 08-1285 (February 5, 2009) 31a

Appendix K: Motion to Request Oral Argument/Brief in Support of Motion, Court of Appeals of the State of Arkansas, No. CACR 08-1285 (June 29, 2009) 33a

Appendix L: 1Motion that Appellant's Supplemented Tendered Record Submitted Timely to the Court with Deemed Denial of a Motion for a New Trial, be Filed as a Timely Appeal with Supplement Record and 2Motion for Review of the Situation Surrounding the Refusal of the Clerk to File Papers Timely Submitted and Separation of a Rule on the Clerk from an Accompanying

Error of Coram Nobis , Court of Appeals of the State of Arkansas, No. CACR 08-1285 (November 13, 2009) 46a

Appendix M: Appellant's Petition for Review, The Supreme Court of Arkansas (February 15, 2010) 53a

Appendix N: *It is a tree, or a club-toed frog foot?* by Connie Watkins published on May 25, 2003, Paragould Daily Press 58a

Appendix O: Letter to William B. Fisher from Donis B. Hamilton, dated November 16, 2006 ..... 62a

Appendix P: Letter to Donis Hamilton from William B. Fisher, dated November 17, 2006 ..... 64a

Appendix Q: 'List of Reasons...' Prepared by Petitioner on Nov 27 2006 (Fold-out Exhibit, 1 p.) 66a

Appendix R: Transcript of November 28, 2006 Connie Watkins' arrest 67a

Appendix S: Nov 28 2006 Police/Dispatch & Police/Police Radio Transcripts and Times 80a

Appendix T: Radio Log Report 83a

Appendix U: Paragould Police Department Incident Report 88a

Appendix V: Paragould Police Department Incident Report 91a

Appendix W: Petition and Complaint, In the Circuit Court of Greene County, Arkansas, No. CIV-2006-335(H) (December 6, 2006) 93a

Appendix X: Letter to Kimberly Dale from Connie Watkins, dated November 21, 2007 ..... 96a

Appendix Y: Letter to Kimberly Dale from Connie Watkins, dated November 24, 2007 ..... 99a

Appendix Z: State's Incomplete Transcript of November 28, 2006 Arrest .. 102a

Appendix AA: Prosecutor Kimberly Dale's Office September 28, 2007 Police Calls, FOIA Request September 30, 2009 No. 20, Screen (Fold-out Exhibits, 2 pp.) ... 110a

Appendix AB: Letter to the editor, by Connie Watkins 111a

Appendix AC: FOIA Request September 30, 2009, Nos. 1, 4 and 5 ..... 115a

Appendix AD: November 27, 2006 Photo of Watkins' Fence Row Trees . 119a

Appendix AE: Bill McCartney's Witness Statement
(Fold-out Exhibit, 1 p.) 120a

APPENDIX A

Cite as 2010 Ark. App. 85

ARKANSAS COURT OF APPEALS
DIVISIONS I & II

No. CACR08-1285

[Filed January 27, 2010]

CONNIE WATKINS	)
APPELLANT	)
	)
V.	)
	)
STATE OF ARKANSAS	)
APPELLEE	)
	)

Opinion Delivered January 27, 2010

APPEAL FROM THE
GREENE COUNTY CIRCUIT COURT
[CR-2007-391(H)]

HONORABLE BARBARA HALSEY, JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

This case comes to us by appellant, Connie Watkins, who was convicted in a bench trial in Greene County Circuit Court of misdemeanor disorderly conduct and fined $100 after a de novo appeal from a conviction in district court. Watkins's arrest stemmed from events occurring soon after Paragould police officers Jaree Johnson and Mike Tinnin arrived at Watkins's house on the morning of November 28, 2006, in response to a request from Paragould Light, Water, and Cable for a civil standby for Crafton Tree Service to trim the trees along the electric lines. Watkins was represented by counsel at trial, but she is prosecuting this appeal pro se. She presents three arguments on appeal:

A. The Appellant's arrest was unlawful when she was arrested against her will, without a warrant or probable cause, when no warning was given, when there was no indication of criminal activity on her part before arrest, according to official police records, in violation of the Fourth Amendment to the Constitution which protects the right of the people to be secure in their persons . . . against unreasonable searches and seizures.

B. Procedural guarantees of 5th, 6th, and 14th amendments and similar guarantees of the Arkansas Constitution were violated on every issue including: the right to a speedy trial; to be informed of the nature of the accusations, the right for prehearings; the right for a jury trial that is to be waived only in the right manner; the right of a jury trial in light of governmental oppression; the right to be present for critical hearings; the right to have the assistance of

> counsel for defense; the right of the accused to be confronted with the witnesses against her; and the right to have compulsory process for obtaining witnesses in her favor.
>
> C. Appellant's convictions for "disorderly conduct" was so totally devoid of evidentiary support as to be invalid under the Due Process Clause of the Fourteenth Amendment.

We affirm Watkins's conviction.

Although appellant's sufficiency-of-the-evidence argument is listed as her third argument, because of our prohibition against double jeopardy, we review the sufficiency of the evidence prior to examining trial error. *Chrobak v. State*, 75 Ark. App. 281, 58 S.W.3d 387 (2001). When the sufficiency of the evidence to support a criminal conviction is challenged on appeal, we review the evidence in the light most favorable to the State and affirm if the verdict is supported by substantial evidence. *Johnson v. State*, 343 Ark. 343, 37 S.W.3d 191 (2001). Substantial evidence is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resort to speculation or conjecture. *Id.*

Arkansas Code Annotated section 5-71-207(a) (Repl. 2006) provides, in pertinent part:

> A person commits the offense of disorderly conduct if, with the purpose to cause public inconvenience, annoyance, or alarm or recklessly creating a risk of public inconvenience, annoyance, or alarm, he or she:

(1) Engages in fighting or in violent, threatening, or tumultuous behavior;

(2) Makes unreasonable or excessive noise; [or]

(3) In a public place, uses abusive or obscene language, or makes an obscene gesture, in a manner likely to provoke a violent or disorderly response.

The two police officers and a representative of the tree service testified for the State; Watkins and her husband testified for the defense.[1] Officer Jaree Johnson testified that there was a road going into the field behind Watkins's house; that she pulled up to the area where Officer Tinnin's car and PLWC's truck were located; that Watkins came out of her house and through an opening in a wire fence that separated her property from the field; and that Watkins told her that PLWC did not have the right to trim the trees. Johnson said that when she walked over to Watkins, Watkins was suddenly gone and "chaos erupted."

Johnson testified that Watkins was mad, which was evidenced by her demeanor, facial expressions, and tone of voice; that Watkins was going from person

---

[1] While there was an audiotape from the officers' lapel microphones, much of the recorded information was unintelligible. Furthermore, from the record, it appears there were further events that occurred that were not recorded, as evidenced by the testimony provided at trial. With the benefit of the audiotape evidence, the trial court elected to credit the testimony of the State's witnesses at trial, which is within the trial court's province as finder of fact. *Palmer v. State*, 60 Ark. App. 97, 959 S.W.2d 420 (1998).

to person yelling; and that keeping up with Watkins was difficult. According to Johnson, all of her attempts to calm Watkins down and rationalize with her were unsuccessful, even after Watkins was made aware that she could be arrested. Johnson said that she heard Watkins say "shit." According to Johnson, she saw Watkins approach one of the tree trimmers very quickly and yell at him, causing him to drop the orange cone he was holding and step back; after the tree-trimming crew had placed the cones in the work area, Watkins continued to enter that area, leaving only to go yell at one of the tree trimmers, but returning into the coned-off area. Johnson said that Watkins's movements toward her intimidated her because Watkins was so rage-filled.

Officer Mike Tinnin testified that the morning of November 28 was the first time he had met Watkins; that he saw Watkins's husband out front when he arrived; that he continued on to the back, where there was an open field; that individuals from the tree service were already there when he arrived; and that an individual from PLWC handed him paperwork, told him that they were going to be cutting the trees, and informed him of prior problems they had experienced with Watkins. Tinnin said that Watkins came out while he was talking to the individual from PLWC; that he asked her to point out her property line; that the trees were behind her property line in the field; that he tried to talk to her and reason with her but she did not calm down and remained visibly angry, as evidenced by her tone of voice, facial expressions, stance, posture, and "the way she would walk toward people"; and that she was upset and got loud and boisterous with individuals from the tree service and PLWC. He stated that the more he tried to remove

Watkins from the work-safety zone, the more aggravated Watkins became, and it escalated to a point where he told Johnson that they needed to get Watkins out of there. Tinnin said that there was a lot of yelling and "a little bit of cussing," saying that he heard the "F" word and "bastard" being used, and that Watkins yelled at the employees of the tree service that they were murderers because they were murdering her trees. Tinnin said that he kept trying to get Watkins out of the work-safety area but that she would not follow his instructions; he warned Watkins that she could be arrested, but she did not calm down after that warning. Tinnin said that if Watkins had just walked away and gone back to her house, he would have been happy and would have just let her go; he said that he did not want to arrest her and was trying to get her to go back to her house, but she refused to go. He testified that he took into consideration Watkins's physical actions that morning—her aggressiveness, her facial expressions, her stances, the way she rushed at people—and said that he did not know what she might do, that if she was agitated enough "it could come to blows," and that was what he was there to prevent.

Jake Crafton, the operations manager and vice president of Crafton Tree Service, testified that on the day in question, his crew was located on property adjacent to Watkins's property, and they coned off the work site and proceeded to work on the trees located on the property behind Watkins's house. Crafton said that Watkins came out of the house after they pulled up; approached a city utility employee first; and then came over to where his crew was located and began yelling and cussing at his employees and anyone else around, saying, "you f***n' tree trimmers you're

butchering my trees" in a loud confrontational manner, yelling right in his face. Crafton described Watkins as irate and "acting hysterical"; that he felt like she was threatening him; that he was intimidated by her actions; and that he was concerned for the well-being of his employees. He said that Watkins screamed at his crew, calling them "bastards" and yelling, "f***n' tree trimmers, quit doin' that," and that she charged at him as well as some of his workers in a speedy manner. He said that Watkins continued to enter the coned safety zone on several occasions, he asked the police to escort her out of the area, and he did not try to calm Watkins down because there was no rationalizing with her, that she was "going ballistic."

The State rested after Crafton's testimony, and Watkins's attorney presented a lengthy directed-verdict motion, which was denied. Both Watkins and her husband then testified, basically disputing the officers' and Crafton's version of events. At the close of all the evidence, Watkins's attorney renewed the directed-verdict motion, which was denied.

In finding Watkins guilty of disorderly conduct, the trial court found that Watkins made personal attacks, called employees of the tree service "bastards" and "f***n' tree trimmers," used the "F" word, and yelled, screamed, and cussed at the owner of the tree service and his employees. The trial court found that Watkins's conduct was threatening and raised concerns about whether the confrontation "would come to blows." The trial court noted that the tree-service manager testified that he was threatened and intimidated by Watkins's actions and concerned for his employees because of Watkins's confrontational, irate,

and hysterical behavior, and that Officer Johnson described Watkins as being in a constant state of rage and never calming down, with a rage-filled face, tone, and manner. The trial court observed Officer Tinnin's description of Watkins as loud, aggravated, and visibly angry, as evidenced by her tone of voice, facial expressions, and posture; the way Watkins would "rush" at people; and that when Tinnin attempted to get Watkins out of the safety zone, Watkins kept coming back and yelling, and would not follow instructions to stay out of the safety zone. The trial court found Officers Johnson and Tinnin and Jake Crafton to be credible, while finding the credibility of Watkins and her husband to be suspect and inconsistent.

Sufficiency of the Evidence

Watkins's sufficiency argument, while styled as being "so totally devoid of evidentiary support as to be invalid under the due-process clause of the Fourteenth Amendment," was presented in three parts: that the State's witnesses gave "perjured" and false testimony that was inconsistent and that the trial judge was clearly erroneous in her evaluation of the credibility of the witnesses; that "the statute of Disorderly Conduct was used in bad faith" in her arrest; and that her conviction was invalid based upon the First Amendment.

a. Witness Credibility; Inconsistencies in Testimony

With regard to the credibility of witnesses and inconsistencies in witness testimony, it is the province of the trial court, not the appellate court, to evaluate witness credibility and to resolve any conflicts in the

evidence. Resolution of conflicts in testimony and assessment of witness credibility is for the finder of fact. *Loy v. State*, 88 Ark. App. 91, 195 S.W.3d 370 (2004). In this case, the trial court, as the finder of fact, found the testimony of the State's witnesses to be more credible than the testimony of Watkins and her husband and resolved any conflicts in the testimony in the State's favor; this court is bound by these determinations.

b. Bad Faith

Watkins argues that the disorderly conduct statute was used in bad faith to punish her and discourage her in the exercise of her constitutionally protected rights. Watkins did not make this argument to the trial court; therefore, it is not preserved for appeal. Arguments not raised in the trial court, even ones of a constitutional nature, will not be addressed for the first time on appeal. *Buford v. State*, 368 Ark. 87, 243 S.W.3d 300 (2006).

c. First Amendment Challenge

Watkins argues that her conviction was invalid based upon the First Amendment. While this challenge could have been more artfully formed, it is evident that Watkins is arguing that her conviction for disorderly conduct violates her right to free speech under the First Amendment. As noted earlier, Watkins's attorney made a lengthy directed-verdict motion. Her trial counsel's motion included the argument that the First Amendment protects a significant amount of verbal criticism toward police officers and that what was said by Watkins did not amount to "fighting words."

The trial court, by its comments from the bench, appears to have convicted Watkins under Arkansas Code Annotated section 5-71-207(a)(3), which provides that a person commits disorderly conduct when, with the purpose of causing public inconvenience, annoyance, or alarm, in a public place, she uses abusive or obscene language, or makes an obscene gesture, in a manner likely to provoke a violent or disorderly response. "The right of free speech is not absolute at all times and under all circumstances." *Bailey v. State*, 334 Ark. 43, 52, 972 S.W.2d 239, 244 (1998) (citing *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571 (1942)). In *Johnson*, *supra*, our supreme court held that subsection (a)(3) proscribes only "fighting words" in compliance with *Chaplinsky*, in which the test for determining whether language fell within this proscription was set forth as "what men of common intelligence would understand would be words likely to cause an average addressee to fight." *Chaplinsky*, 315 U.S. at 573.

We find the facts of *Johnson* support Watkins's conviction. Police approached Johnson, who was pacing and acting nervously, on a street corner, and when asked his name, Johnson responded, "Why are you f*** harassing me?" Johnson, with whom officers had previous contact, then began flailing his arms, clenching his fists, and pulling off his shirt. Johnson was arrested for disorderly conduct after he walked to a nearby carport, would not leave, sprinted across the front porch, and wrapped his arms around the railing, refusing to leave. In finding sufficient evidence to support Johnson's disorderly conduct conviction, the supreme court held that the evidence indicated that Johnson alternated between states of calm and irrationality, and that he was flailing his arms, cursing

loudly, and eventually demonstrating a violent demeanor.

Here, although police had not had previous encounters with Watkins, she became and remained irrational, even after being told that she could be arrested; she cursed the officers and tree-service employees; and she aggressively ran from person to person confronting them, both inside and outside the designated work zone. Furthermore, there was testimony from Crafton that he was intimidated by her and was concerned for the well being of his employees; Officer Johnson also testified that she was intimidated by Watkins. Considering Watkins's language with the totality of her actions, we hold, as our supreme court found in *Johnson*, that there is sufficient evidence to uphold Watkins's conviction for disorderly conduct.

Legality of Arrest / Constitutional Violations

Watkins's remaining points, the legality of her arrest and several alleged constitutional violations, are not preserved for appeal because Watkins never made those arguments below. Again, arguments not raised in the trial court, even ones of a constitutional nature, will not be addressed for the first time on appeal. *Buford*, *supra*.

Affirmed.

VAUGHT, C.J., and PITTMAN, GLADWIN, and MARSHALL, JJ., agree.

HART, J., dissents.

HART, J., dissenting. I dissent for two reasons. First, I believe that the majority opinion completely ignores all of our jurisprudence concerning appellate-issue preservation. Secondly, I simply cannot accept what the majority has, perhaps unwittingly, done to our civil liberties.

This case involves a pro se appellant challenging her conviction for disorderly conduct that occurred on her own property and as a result of her attempt to get the police to stop a tree service hired by the Paragould Electric Company from destroying her trees. There are three points raised on appeal, and I agree that the majority was correct when it found that two of these points are clearly not preserved for appellate review. I cannot explain why they believe that the third point, which is ostensibly a challenge to the sufficiency of the evidence, was not similarly barred.

There can be no dispute that Ms. Watkins's trial counsel preserved a challenge to the sufficiency of the evidence in the trial court by the most thorough motion to dismiss that I can recall seeing in all the cases I have reviewed on this court. However, while the motion to dismiss, made by an experienced criminal-defense lawyer, was nearly perfect, the argument on appeal, made by a pro se appellant was very far from perfect. Indeed, try as I might, I could not find where the appellant made any argument that tracked any of the elements of the offense. Accordingly, Ms. Watkins changed her argument on appeal, and we should have treated this case the very same way we have treated literally hundreds of other cases where the appellant has raised an argument on appeal that was different from the argument that he or she made to the trial court and refused to reach the merits. I

submit that it is our constitutional duty to treat all litigants equally.

However, while it would be bad enough that the majority has ignored our preservation jurisprudence, the decision on the merits is simply appalling. Today's opinion has criminalized "body language," uttering a sibilant expletive—the woman said Shit!—and walking on a person's own property when another party sets out orange cones marking an invisible line, even though that other party may be trespassing.

Moreover, I cannot ignore the fact that this case involved a warrentless misdemeanor arrest. That means that the act complained of had to be committed in the presence of the arresting officer. Ark. R. Crim. P. 4(a)(iii); Ark. Code Ann. § 16-81-106(c)(1) (Repl.2005). Further, this case is unusual in that the arresting officer made an audio recording of everything that transpired. The majority had not only the tape itself, but a complete transcript. Yet, the majority credits, and quotes at length, testimony that was

belied by the audio tape and conduct that was not observed by the arresting officer.[2]

---

[2] The majority's contention that the audiotape was "unintelligible" is misguided. This assertion is belied by the fact that the State was able to produce a transcript of her remarks. While there is some background noise on the tape, Ms. Watkins remarks are clear. I concede that great deference is given to the trial court's determination of a witness's credibility, that deference is not absolute. The supreme court has stated that it will not rely on testimony that is "inherently improbable, physically impossible, or so clearly unbelievable that reasonable minds could not differ thereon." *Brown v. State*, 374 Ark. 341, 288 S.W.3d 226 (2008). When testimony diverges from what is recorded, as it does here, it is at least "inherently improbable," if not "so clearly unbelievable that reasonable minds could not differ."

APPENDIX B

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

December 9, 2009

Ms. Connie Watkins
5404 Mark St.
Paragould, Arkansas 72450

RE: CACR 08 01285
Connie Watkins
v.
State of Arkansas

Dear Ms. Watkins:

The Arkansas Court of Appeals issued the following order today in the above styled case:

> "Appellant's pro se motion to file previously denied record as a supplemental record to this appeal and for review is denied."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:sc
cc: Brad Newman

APPENDIX C

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

August 26, 2009

Ms. Connie Watkins
5404 Mark St.
Paragould, Arkansas 72450

RE: CACR 08 01285
Connie Watkins
v.
State of Arkansas

Dear Ms. Watkins:

The Arkansas Court of Appeals issued the following order today in the above styled case:

"Appellant's pro se motion for oral argument is denied. Marshall, J., would grant."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:sc
cc: Brad Newman

APPENDIX D

Office of the Clerk
Supreme Court
Court of Appeals
State of Arkansas
Justice Building
625 Marshall Street
Little Rock, AR 72201

June 16, 2009

Ms. Connie Watkins
5404 Mark St.
Paragould, AR 72450

RE: Connie Watkins v. State of Arkansas
CACR08-1285

Dear Ms. Watkins:

Your request for oral argument has been denied. This case will be submitted on the record and briefs only.

If you disagree with this decision, you may file a motion with this Court within ten business days explaining why you feel this case warrants oral argument.

Sincerely,

/s/Sue Clayton /lb

Sue Clayton,
Chief Deputy Clerk

SC:lb
cc: Dustin McDaniel

APPENDIX E

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

May 13, 2009

Ms. Connie Watkins
5404 Mark St.
Paragould, Arkansas 72450

RE: CACR 08 01285
Connie Watkins
v.
State of Arkansas

Dear Ms. Watkins:

The Arkansas Court of Appeals issued the following order today in the above styled case:

"Appellant's pro se petition for writ of error coram nobis is denied.

Appellant's motion to stay brief time is granted. Reply brief due in thirty days."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:sc
cc: Brad Newman

APPENDIX F

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

December 10, 2008

Ms. Connie Watkins
5404 Mark St.
Paragould, Arkansas 72450

RE: CACR 08 01285
Connie Watkins
v.
State of Arkansas

Dear Ms. Watkins:

The Arkansas Court of Appeals issued the following order today in the above styled case:

"Appellant's pro se motion to correct the record is denied."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:sc
cc: David R. Raupp

APPENDIX G

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

April 8, 2010

Ms. Connie Watkins
5404 Mark St.
Paragould, AR 72450

RE: CR10-152.
Connie Watkins v. State of Arkansas

Dear Ms. Watkins:

The Arkansas Supreme Court made the following order today in the above styled case:

"Petition for review is denied."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:jko

cc: Brad Newman, Asst. AG
Jan Griffith, Clerk
(CR07-391)

APPENDIX H

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

March 3, 2010

Ms. Connie Watkins
5404 Mark St.
Paragould, AR 72450

RE: CACR 08 01285
Connie Watkins
v.
State of Arkansas

Dear Ms. Watkins:

The Arkansas Court of Appeals issued the following order today in the above styled case:

"Appellant's Pro Se Petition for Rehearing is denied."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:sc

cc: Brad Newman
Greene Circuit Clerk
(No. CR-2007-391-H)

APPENDIX I

Leslie W. Steen
Clerk
Office of the Clerk
Supreme Court of the State of Arkansas
Arkansas Court of Appeals
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

May 7, 2009

Connie Watkins
5404 Mark Street
Paragould, AR 72450

RE: CR 09 00401.
Connie Watkins v. State of Arkansas

Dear Ms. Watkins:

The Arkansas Supreme Court made the following order today in the above styled case:

"Motion for rule on clerk is denied."

Sincerely,

/s/Leslie W. Steen
Leslie W. Steen, Clerk

LWS:jko

cc: Attorney General
Honorable Barbara Halsey, Circuit Judge
Jan Griffith, Clerk
(CR07-391)

APPENDIX J

COURTS OF APPEALS OF THE STATE OF ARKANSAS

CACR 08 - 01285

[Dated February 3, 2009]

CONNIE WATKINS	)
	)
V	)
	)
STATE OF ARKANSAS	)
	)

MOTION TO SUPPLEMENT THE RECORD

Comes the appellant requesting to supplement the record with a motion for a new trial based on newly discovered evidence, amended motion, brief in support of amended motion and appeal of deemed denial of motion for a new trial.

1. On November 26, 2008, Appellant filed with the Circuit Court in Greene County, her *pro se* motion for a new trial on the ground of newly discovered evidence.

2. On December 10, 2008, Appellant filed an amended motion with corrections and additions: for a new trial on ground of newly discovered evidence with request for a hearing and that the verdict be overturned.

3. Also on December 10, 2008, Appellant filed a brief in support of amended motion, notice of State's failure to honor certificate of service and reply to State's response.

4. On January 2, 2009, Appellant filed a notice of appeal from the deemed denial of motion for a hearing and new trial on grounds of newly discovered evidence.

5. As of February 3, 2009, the Court has not filed a ruling concerning the above named filings.

6. Appellant requests to supplement the record and include the filings and or content and basis for motion for a new trial in her direct appeal or have the motion brought to the attention of the Court of Appeals.

7. Appellant has attached one copy of the filings named along with 13 copies of this motion.

WHEREFORE, the appellant respectfully prays that the Court grant her motion to supplement the record with the newly discovered evidence that unduly prejudiced her and caused her to be convicted and that the Court consider the authorities as submitted in the motions and supporting brief as support for this motion.

Respectfully submitted,

CONNIE WATKINS, Appellant *pro se*

By: /s/ Connie Watkins

CONNIE WATKINS
5404 Mark Street
Paragould, AR 72450
(870) 239-4166

APPENDIX K

COURTS OF APPEALS OF THE STATE OF ARKANSAS

CACR 08 - 01285

[Dated June 29, 2009]

CONNIE WATKINS)
)
V)
)
STATE OF ARKANSAS)
)

MOTION TO REQUEST ORAL ARGUMENT

Comes the appellant, in her motion to request oral argument and states:

1. All filings in this appeal have been made, pro se, by appellant Connie Watkins who feels that her appellate brief is thorough in its claims, but who wants to take advantage of all opportunities afforded in the appeal process.

2. The appellant intends not to interfere with this court's view if it is that the verdict should be voided, overturned or dismissed in lieu of a new trial, but she has great concern after reading about Rule 5-1: 'If you ask for oral argument in a timely way, you'll get it, and if the court denies your request, it may be time to

worry about your chances for success.' Appellant wants to take precautions that safeguards are in place for justice, if that is possible, since the failure to consider Appellant's claims would result in continued fundamental miscarriage of justice.

3. In direct appeal, I made claims of innocence without knowing of a legal term 'actual innocence,' and would now support the claims by being available, in person, to the court to answer questions concerning the constitutional issues pertaining to my case that were evident in the errors by the court, the prosecution and the defense counsel at my trial and constitutional issues that I raised accordingly on direct appeal as with other direct attacks on the judgment.

4. The judgment in appellant's trial achieved only to follow the dictates of government oppression without regard to justice or the mandates of the Constitution and should be examined for the plain error allowed and used in the conviction of appellant. In the appeal, there are allegations that the police officers falsified testimony against the appellant, as well as allegations that other members of the prosecution team participated in that process and appellant has relied in part on the fact that the court found Jake Crafton to be credible, and newly discovered evidence rejected by this court shows the opposite.

5. Defects that affected appellant's substantial rights occurred in the circuit court trial. This court should correct error and is bound to interpret the Constitution to restore fairness and truth, and allow for proof of innocence, according to rules.

6. Appellant requests the permission of this court to express grave concern about obtaining justice, as the lack of justice was demonstrated during her trial.

7. Appellant though not understanding of court procedures and processes, and receiving no direction or counsel from attorney: maintained before and during her trial that she should not be denied probable cause and evidentiary hearings; did present all known, available facts and material evidence to her attorney and to the prosecution, for jury consideration; insisted that her attorney preserve all constitutional issues for appeal; and provided Arkansas and U.S. Court case law on insufficiency and total lack of evidence, bad faith, prosecution suppression of evidence, conspiracy to arrest and convict, etc, to attorney long before trial, yet evidence remained on the table, defense witnesses were not called, the appellant was denied a jury trial and the court encouraged defense attorney 'to rest'. **R 439; AB 106.**

8. The prosecutor withheld evidence in part, with the granting of motion in limine held outside the appellant's hearing, the content of which was not discovered by the appellant until after the trial. That did prejudice her, was a denial of a 6th amendment right and brought about the denial of additional constitutional rights.

9. Other facts, proving the innocence of appellant and showing bad faith, conspiracy and perjury by prosecution witnesses existed during the trial, but were kept from the court by the prosecution who knew or should have known and is shown to 'have known' by facts filed as supplement in the circuit court according to Rule 33 and which were denied by the present court

for inclusion though Appellant proceeded with due diligence and filings timely made.

10. On November 18, 2008, Appellant filed a motion to correct the record and was denied by the present court. Within ninety days of the trial, the appellant filed a motion for a new trial with the trial court on grounds of newly discovered evidence and filed a motion to supplement the record which included that motion and evidence, the notice of appeal of deemed denial and the supplemented record of the circuit court, in the present court on February 5, 2009. The motion was denied on February 25, 2009. On May 9, 2009, the Arkansas Supreme Court denied appellant's motion for rule on clerk which appellant had submitted with her petition for writ of coram nobis, which was denied on May 13, 2009. Appellant had submitted both without case numbers, as per conversation with the clerk of the present court, and the motion for rule on the clerk had been assigned CR 09 00401, though it was a companion to the writ of coram nobis.

11. The denied coram nobis had attempted to supplement the record with evidence that was revealed to the appellant only after the verdict. The writ was warranted in the fact that the rules allow Appellant to supplement the record with certain newly discovered evidence that was not available to fully show her innocence during trial as result of suppression by the prosecution through no fault of Appellant, in this case that Jake Crafton, chief state witness is shown by a fraud and handwriting expert to have fabricated vile, false accusations in the form of a letter and attached the name of a Paragould Light and Water Commission (PLWC) employee to the letter. The record had already

demonstrated the impossibility of his testimony that only agreed with the testimony of the officers in their vile, uncorroborated accusations, but not in time, spatial distances or in descriptions of actor's positions and movements.

12. Newly discovered evidence included in the writ of coram nobis also clearly demonstrated that false information intentionally given to the Paragould Police Department to prejudice them against Connie Watkins, that facts had been falsified against her when groups of workers were gathered to met with the attorney where solicited complaints were 'created' and written in the hand of PLWC attorney to frame Appellant for arrest, and that one accuser was Jake Crafton. The tendered, denied supplement record also shows that the CEO and attorney for PLWC discussed on November 16th and 17th, 2006, the desire to take a suit against Appellant, just twelve days before arresting her, but agreed that they had no reason to go to her property. They went to her property on November 28, 2006 and took Jake Crafton, after presenting the above mentioned untrue and fraudulent statements to the police chief and mayor **R 254, 282-284; AB 41, 51-52.**

13. The appellant was unaware of the above mentioned untrue and fraudulent statements in the possession of PLWC and their attorney during the trial, and in compliance with the due diligence requirement: she could not, in the exercise of due diligence, have presented the facts at trial; and she, upon discovering the facts, did not delay bringing the petition.

14. The newly discovered existing facts not known to Appellant were not presented to the court at the trial on the merits; however, if presented they would have prevented, in a fair court, the rendition of judgment. The newly discovered evidence does not go to the merits of the issues tried, and the exclusion of the facts caused a great injury and injustice to the appellant.

15. There are compelling circumstances in this case wherein the newly discovered evidence should have been allowed in to achieve justice and to address errors of the most fundamental nature. . .that of the arrest and conviction of an innocent person against whom prosecution did not show or prove guilt of any kind or to any degree, but secured the conviction of appellant with deceit and lies.

16. Evidence continues to be discovered by appellant, demonstrative of 'the framing' by the local government, when secretly filed 'arrest and incident reports' for unknown offenses and completely without the knowledge of appellant, appear on her permanent record, and demonstrative of the unreasonable power exercised in my trial to convict the innocent appellant.

17. The record shows that the conviction of the appellant rests upon the testimony of the state's two police officers and Jake Crafton, and that none of their testimonies were corroborated by one piece of material evidence supplied by either side in the case.

18. Trial in light of intent by a combination of cohesive governmental agencies, unfairly and unconstitutionally prejudiced the appellant. Constitutional arguments are preserved by raising

issues in trial court in Arkansas, and Constitutional errors can be raised for the first time on appeal where prejudice is shown by record.

19. The record shows that the appellant's testimony and that of her witness was totally rejected by the trial court **R 487-489; AB 128-133** even though defense testimony was the only testimony that was corroborated with the police records put into evidence and with physical facts. **R 368-470; AB 82-120.**

20. Appellant was denied due process, equal protection, and fundamental fairness by the court with a finding of guilty when the state failed to prove any of the elements of the crimes [with] which she was charged. There is insufficient evidence to substain (sic) the conviction and sentence.

21. The fact that appellant was not allowed to timely supplement the record with exculpatory newly discovered evidence, unknown until after the verdict, suppressed by the prosecution team, and that proves deliberate fraud and conspiracy to arrest and convict the appellant in this case of first impression, having many constitutional elements, and the fact that the newly discovered evidence would have changed the result of the trial, in both municipal and district courts where the decisions were based solely on the testimony of witnesses that testified according to the fraudulent accusations contained in the newly discovered evidence, are reasons that the appellant should be available to answer questions and have input, if there is any doubt in this case that the judgment should be overturned.

22. Appellant can show, "based on new evidence, that 'a constitutional violation has resulted in her conviction and that she is actually innocent," in addition to the innocence already reflected in the record, and the lack of guilt shown by the record.

23. For decades if anyone looks at my family tree and runs across the name Connie Watkins, they will say she is the one who swore at PPD, utility workers and charged them, got in their face, etc. I do not deserve that legacy, and this court has an obligation to scrutinize this case to find the truth of the court's error and the truth of the case.

Wherefore, Appellant prays that if the justices are not convinced that the judgment in this case should be overturned, the court will allow her to attend for oral argument.

Respectfully submitted,

CONNIE WATKINS, Appellant

By: /s/ Connie Watkins, pro se
Connie Watkins
5404 Mark St
Paragould, AR 72450
(870) 239-4166

BRIEF IN SUPPORT OF MOTION

The petitioner also must "show a fair probability that, in light of all the evidence, including that alleged to have been illegally admitted (but with due regard to any unreliability of it) and evidence tenably claimed to have been wrongly excluded or to have become available only after the trial, the trier of the facts would have entertained a reasonable doubt of his guilt." Kuhlmann v. Wilson, 477 U.S. 436, 455 n. 17, 106 S.Ct 2616, 2627 n. 17, 91 L.Ed.2d 364 (1986) (plurality) (emphasis added) (quoting Henry J. Friendly, Is Innocence Irrelevant?

In Bracy v. Gramley, 520 U.S. 899 (1997), the United States Supreme Court remanded for discovery and expressed concern over evidence that a trial judge had "fixed" other murder cases around the same time as the defendant's case was pending. The Supreme Court determined the defendant had shown cause for discovery concerning the judge's bias.

Rule 33 authorizes a district court to grant a new trial & quote "if the interests of justice so require." It also provides:

> A motion for new trial based on newly discovered evidence may be made only within three years after the verdict or finding of guilty .... A motion for a new trial based on any other grounds may be made only within 7 days after the verdict or finding of guilty ....

Arkansas recognizes coram nobis. See Ridgeway v. State, 239 Ark. 377, 389 S.W.2d 617, 619-620 (1965), cert. denied 382 U.S. 902, 86 S.Ct. 236, 15 L.Ed.2d

156. The function of the writ of error coram nobis is to secure relief from a judgment rendered while there existed some fact which would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. Cloird v. State, 357 Ark. 446, 182 S.W.3d 477 (2004).

The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. Pitts v. State, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). A writ of error coram nobis is appropriate only when an issue was not addressed or could not have been addressed at trial because it was somehow hidden or unknown and would have prevented the rendition of the judgment had it been known to the trial court. Echols v. State, 360 Ark. 332, 201 S.W.3d 890 (2005).

An issue sufficient to void a judgment absolutely must be an issue that will render the judgment a nullity such as a lack of jurisdiction to try the petitioner. Travis v. State, 286 Ark. 26, 688 S.W.2d 935 (1985).

Concerning 'actual innocence' one must show, "based on new evidence, that 'a constitutional violation has probably resulted in the conviction of one who is actually innocent.'" Brownlow v. Groose, 66 F.3d 997, 999 (8th Cir. 1995)

The actual innocence exception is concerned with claims of actual, not legal, innocence. Anderson v. United States, 25 F.3d 704, 707 (8th Cir. 1994). It is evidence of factual innocence coupled with a constitutional violation which triggers the actual

innocence exception. Indeed, a credible claim of actual innocence "requires [a] petitioner to support his allegation of constitutional error with new reliable evidence . . .."

It is true that even constitutional issues must be raised at trial or on direct appeal. Williams v. State, 346 Ark 54, 56 S.W.3d 360 (2001), But, we do not apply that rule in cases where the errors are so fundamental as to render the judgment of conviction void and subject to collateral attack. Sasser v. State, 338 Ark. 375, 993 S.W.2d 901 (1999).

To evaluate a motion for a new trial based on newly discovered evidence, we apply the standards we first set out in Thompson v. United States, 188 F.2d 652 (D.C. Cir. 951). Thompson holds that a court may grant a new trial on the basis of newly discovered evidence only where each of the following conditions has been met:

> (1) the evidence must have been discovered since the trial; (2) the party seeking the new trial must [have shown] diligence in the attempt to procure the newly discovered evidence; (3) the evidence relied on must not be merely cumulative or impeaching; (4) [the evidence] must be material to the issues involved; and (5) [be] of such nature that in a new trial it would probably produce an acquittal.

It is a judicial question for the court to determine whether or not a given regulation is reasonable and falls fairly within the power of the legislature, and it is the duty of the court to interfere when the police power is unreasonably exercised. Williams v. State, 85

Ark. 464, 108 S.W. 838, 26, L.R.A. (N.S.) The police power of the State is not unlimited and is subject to judicial review, and laws arbitrarily and oppressively exercising it may be annulled as violative of constitutional rights. McLean v. State, 211 U.S. 539, affirming 81 Ark. 504.

United States v. Agurs; U.S. 1976; test for materiality of newly discovered evidence: does the omitted evidence create a reasonable doubt that did not otherwise exist? Kyles v. Whitley; U.S. 1995; reaffirmed *Brady-Agurs-Bagley* line; suppression of exculpatory evidence implicates *Brady* rights even if prosecutor is unaware.

Issues not properly preserved at the district court level and presented for the first time on appeal ordinarily will not be considered by this court as a basis for reversal unless there would be a plain error resulting in a miscarriage of justice. Fed.R.Crim.P. 52; Edwards v. Hurtel, 724 F.2d 689, 690 (8th Cir. 1984) (Emphasis added)

There is a significant and inherent difference between appeals brought by criminal defendants and those brought on behalf of the state. The former is a matter of right, and to cut off a defendant's right to appeal because of his attorney's failure to follow rules would violate the Sixth Amendment right to effective assistance of counsel. See Franklin v. State, 317 Ark. 42, 875 S.W.2d 836 (1994); Ark. R. App. P. -- Crim. 1.

Under Arkansas law, a ground that is sufficient to void a conviction is one so basic that the judgment is a complete nullity. Shockley v. State, 291 Ark. 251, 724 S.W.2d 156 (1987) The burden is on the petitioner to

establish the fundamental miscarriage of justice exception to the cause and prejudice test. See McCleskey, 111 S.Ct at 1470 ("If [the] petitioner cannot show cause, the failure to raise the claim in an earlier petition may nonetheless be excused if he or she can show that a fundamental miscarriage of justice would result from a failure to entertain the claim." (emphasis added)) McCleskey v. Zant, --- U.S. ---, 111 S.Ct. 1454, 1468, 113 L.Ed.2d 517 (1991).

Cases in the US. Supreme Court, the federal courts, and state courts, have demonstrated that the judiciary will not necessarily defer to government if the facts are sufficiently egregious.

Respectfully submitted,

CONNIE WATKINS, Appellant

By: /s/ Connie Watkins, pro se
Connie Watkins
5404 Mark St
Paragould, AR 72450
(870) 239-4166

APPENDIX L

COURTS OF APPEALS OF THE STATE OF ARKANSAS

CACR 08 - 01285

[Dated November 13, 2009]

CONNIE WATKINS	)
	)
V	)
	)
STATE OF ARKANSAS	)
	)

1MOTION THAT APPELLANTS' SUPPLEMENTED TENDERED RECORD SUBMITTED TIMELY TO THE COURT WITH DEEMED DENIAL OF A MOTION FOR A NEW TRIAL, BE FILED AS A TIMELY APPEAL WITH SUPPLEMENT RECORD AND 2MOTION FOR REVIEW OF THE SITUATION SURROUNDING THE REFUSAL OF THE CLERK TO FILE PAPERS TIMELY SUBMITTED AND SEPARATION OF A RULE ON THE CLERK FROM AN ACCOMPANYING ERROR OF CORAM NOBIS

Comes the appellant, Connie Watkins, pro se, with her motion that her supplemented tendered record, submitted timely to the Court of Appeals with deemed denial of a motion for a new trial, be filed as a timely appeal with supplement record and motion with its

content of newly discovered evidence which was unknown at the time of trial, and her motion for review of the situation surrounding the refusal of the clerk to file papers timely submitted and separation of a rule on the clerk from an accompanying error of coram nobis, which resulted in the denial of the filing of a certified record, and states:

1. On February 5, 2009, Appellant filed a motion to supplement the record. The supplement included: motions filed in Circuit Court in Greene County for a new trial on grounds of newly discovered evidence of malicious fraud and intentional conspiratorial perjury on the part of witnesses; proof by a fraud expert's examination of evidence not in possession of the defendant at the time of the trial, that could not have been known at the time of the trial; proof that it was ONLY the conspiratorial perjury that convicted Connie Watkins and that if known 'would likely have resulted in a verdict of 'innocent'.

2. The motion to supplement the record was denied on February 25, 2009.

3. On March 5, 2009 the appellant talked with the Court Clerk of the Court of Appeals. He listened to her explanation of a) having an appeal in the Court of Appeals and having discovered new evidence to show that she was not guilty of the September 17 [18] sic, 2008 verdict in Circuit Court, b) wanting to file an appeal of the deemed denial of a motion for a new trial on the grounds of newly discovered evidence, discovered three months after the verdict.

4. The Clerk stated an understanding that the basis for filing was not on the grounds of '30 days to file for

a new trial' and advised that if she could 'bring a record with a filing fee within 90 days of having filed her notice of appeal', the court would file her record.

5. On March 9, 2009 at 3:29 pm, Appellant again talked with the Clerk of the Court of Appeals after having difficulty obtaining a copy of the record from the Circuit Court, and she explained that her motion to supplement the record with the deemed denial of a new trial had been denied as a supplement. Clerk Steen stated, "We will file it if you get the motion for a new trial and notice of appeal, I will not refuse to file it." The Clerk stated that he understood that she had filed a motion for a new trial in the trial court after she filed the direct appeal.

6. On March 12, 2009 at 2:42 pm, Appellant purchased the supplemental record from the Circuit Court in Greene County.

7. Appellant filed her brief (CACR-08-01285) with the Court of Appeals on March 16, 2009. The brief was concerning the appeal from the wrongful conviction on September 17 [18] sic, 2008 in Circuit Court.

8. On March 16, 2009, the certified supplemented record was also file-marked in the Court of Appeals, but was marked out as an assistant clerk stated to the appellant that it was not due for 17 more days.

9. On March 30, 2009, the Notice of Appeal from the deemed denial of Motion for a new trial based on newly discovered evidence, and the certified supplement record (with the canceled March 16, 2009 file-mark), along with the $150 filing fee was timely

received by the Court of Appeals, being but was not filed, in opposition to the word of the Clerk.

10. Appellant discussed the unfiled tendered record with the clerk after his having stated that it would be filed upon receipt. The clerk as well as assistants in the clerk's office stated that Mrs. Watkins could submit a motion for rule on the clerk and an error of coram nobis that could be dependent upon each other to convince the court to look at newly discovered evidence (that could not have been known at the time of the trial, but that would have changed the verdict of guilty).

11. Upon the advice of the clerk, the Appellant fixed no case number on her 'motion for rule on the clerk' or on her 'error of coram nobis'.

12. The rule on the clerk was separated from the coram nobis, filed 15th of April 2009, in the Supreme Court as 09 00401 and denied May 7, 2009, thus had no effect on the case. The court kept Mrs. Watkins filing fee, ruling on the 'rule on the clerk' first and opening a 'new case'.

13. The error of coram nobis was filed on the 15th of April 2009 in the Court of Appeals under CACR 08-01285 and was denied on May 13,2009.

14. On May 8, 2009 Appellant talked with Clerk Steen to ask him why the two filings were not considered together and reminded him that he had instructed her not to put her case number on the coram nobis or the rule on the clerk. The Clerk told Mrs. Watkins that the two filings *had been considered together* and that the error of coram nobis had

therefore not been filed. He also related to the appellant that the court *had refused to order him to file the coram nobis* and told Mrs. Watkins that she was not an attorney. After stating other undocumented facts, the Clerk did look at the case and supplied partial corrected facts including that the coram nobis had not yet been ruled upon.

15. In or around July 2009, Connie Watkins was told by an assistant in the clerk's office that the clerk, who was an attorney, had made the call and that *he would not allow the 'rule on the clerk' and the 'error of coram nobis' to be filed together.*

16. The certified supplement record with the newly discovered evidence that could not have been known at the trial has ended up in a dead file 09 00401 in the Supreme Court.

17. Appellant requests a serious review be given to the situation wherein she was convicted on lies for which clear and convincing proof became available after the trial. The appellant tried and did get the deemed denial of the motion for new trial by the circuit court [to enable the court to consider the fraud that was represented to the trial court] to the Court of Appeals before the brief for direct appeal was due, but was refused by the Court of Appeals, which statutes may exclude from the appeal deliberation, but if filed within 2 or 3 years of the verdict according to Federal Rule of Civil Procedure 33 will be available later as timely filed.

18. Appellant requests a review by the court on the situations surrounding the refusal of the court clerk to file papers after assuring her that the papers would be

filed, wherein the clerk had made expressions of disgust with the appellants' predicament.

19. Under the Due Process clause, criminal prosecutions must comport with prevailing notions of fundamental fairness. California v. Trombetta, 467 U.S. 479, 485, 104 S.Ct. 2528, 2532, 81 L.Ed.2d 413 (1984). Indeed, the deliberate deception of the court by the presentation of false evidence is incompatible with rudimentary demands of justice. Giglio v. United States, 405 U.S. 150, 153, 92 S.Ct. 763, 765, 31 L.Ed.2d 104 (1972).

20. Thus, if the prosecution knowingly uses perjured testimony, or if the prosecution knowingly fails to disclose that testimony used to convict a defendant was false, the conviction must be set aside if there is any reasonable likelihood that the false testimony could have affected the jury verdict. United States v. Bagley, 473 U.S. 667, 678-80, 105 S.Ct. 3375, 3381-83, 87 L.Ed.2d 481 (1985).

WHEREFORE, the appellant prays that the proper procedural steps as directed by the Clerk, and reliance upon the statements of the Clerk insofar as he was willing to offer and assure, will result in the newly discovered evidence in the supplemented record (09 00401) being filed as timely and the rule on the clerk and the error of coram nobis being reconsidered. Appellant requests extra consideration in this situation of governmental interests on all sides of her arrest, prosecution, conviction and appeal, that records be filed with the fraudulent facts that set her up for arrest, prosecution and conviction and that her conviction be overturned as would be just.

Respectfully submitted,

CONNIE WATKINS, Appellant, *pro se*

By: /s/ Connie Watkins
Connie Watkins
5404 Mark Street
Paragould, AR 72450
(870)239-4166

APPENDIX M

THE SUPREME COURT OF ARKANSAS

CACR 08 - 01285

[Dated February 15, 2010]

CONNIE WATKINS	)
	)
V	)
	)
STATE OF ARKANSAS	)
	)

APPELLANT'S PETITION FOR REVIEW

Comes now Appellant *pro se*, Connie Watkins, and does respectfully petition all of the members of this Court to review and reverse the decision entered by the Court of Appeal on January 27, 2010.

As grounds for this Petition for Review, I would show the members of this Court the following and in the attached Petition for Rehearing, concerning the January 27, 2010 decision:

1. The Court of Appeals has rendered a decision that I perceive is inconsistent with prior decisions of the U.S. Supreme Cod in that when my case was appealed to the Court of Appeals, it included no evidence that I 'cursed police' and now the Court has affirmed and has added a significant element of

defamation in stating that I 'cursed the officers'. This is not constitutional and the effect is compounded unsubstantiated evidence against me.

1. The Court of Appeals has rendered a decision in my case which is in conflict with *In re Winship* and many published opinions holding that prevent conviction when: a person did not commit a crime; it rests on an unconstitutional ground; the verdict is not supported by substantial evidence or is vague; testimony of a witness is entirely irreconcilable with the physical evidence and is perjured; Sixth Amendment rights are violated in the trial; and when there are errors so fundamental that they render the judgment void if justice is to be served.

2. The Court of Appeals has entered a decision which is in conflict with *Bachellar v. Maryland*, 397 U.S. 564 (1970); *Stromberg v. California*, 283 U.S. 359 (1931); and *Street V. New York*, 394 U.S. 576 (1969) holding that when there is irreconcilable conflict in the evidence as to what next occurred . . . may have been found guilty of violating a code simply because they advocated unpopular ideas and since conviction on this ground would violate the Constitution, it had to be set aside—I was arrested and charged under Ark Code Ann. 5-71-201. The incident report, void of any statement of criminal conduct, stated only that the officers had 'told me to calm down'. The audio of the arrest shows that I said the word shit, one time, "Oh shit, look at these trees. . .[they are not in the electric lines]" and that the most vocal I was in my verbal challenge, with officers only, was to say, "Don't stand there and say those stupid words, you're not sorry, you're here to let these murderers do what they want to my trees." The verdict in my case abandoned the

necessary elements of 'purpose' and 'public' and generally found 'personal attacks, threatening conduct'.

3. The Court of Appeals has entered a decision that is in conflict with *Gooding v. Wilson*, 405 US. 518, 524 (1972) holding: Such language, in order to fall outside the protection of the First Amendment, must "have a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed,", and it must produce a likelihood "that the person addressed would make an *immediate* violent response." *Id.* at 528 (emphasis added). Crafton's testimony is refuted by physical facts, police records and other State's witness testimony. He who was the most adamant that I had 'cursed him and his men' stated, "I'd just sit there...The tone was confrontational. You know, it was that—if it was another man, there might've been a fight right there. That type of –not by me striking them, you know, but it's just that way".

4. The Court of Appeals has entered a decision of significant public interest that is an issue of first impression when the State's **only** substantiated uncontroverted claim is that I said the **word**, 's—t'(s-h-i-t) in a private field in the presence of officers who had come to force government agenda on my property. Affirmation would have an adverse effect on civil rights.

Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute

the crime with which he is charged. *In Re Winship, 397 U.S. 358 (1970)*

Arkansas Code Annotated section 16-91-113(a) (1987) Other exceptions to the rule are (1) cases where the trial judge made an error of which the appellant had no knowledge; (2) cases where the trial judge neglected his or her duty to intervene; and (3)cases involving evidentiary errors which affected the appellant's substantial rights. *See* Ark. R. App. P. -- Crim. 10

The fundamental unfairness of a conviction obtained through the use of false evidence has long been recognized by the Supreme Court. See, e.g., Mooney v. Holohan; Pyle v. Kansas, 317 U.S. 213 (1942); See Name v. Illinois, 360 U.S. 264, 270 (1959) Napue v. United States. As United States v. Agurs, 427 US 97 (1976) The Supreme Court has therefore imposed "a strict standard of materiality" where the prosecution uses evidence that it knew or should have known was false. In such a case, the conviction "must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." Id. at 103.

Rule 52(b) of the Federal Rules of Criminal Procedure was drafted as a restatement of the common law. The United States Supreme Court recognized the "plain error doctrine," the common law predecessor of Rule 52(b), at least as far back as 1896. In Wiborg v. United States, Chief Justice Fuller stated that "if a plain error was committed in a matter so absolutely vital to defendants, we feel ourselves at liberty to correct it" even though the defendants in the case had not "duly excepted" to the error at trial.

When 'a claim of constitutionally protected right is involved, it 'remains our duty ... to make an independent examination of the whole record." *Cox v. Louisiana* (I), 379 U.S. 536, 545 n. 8 (1965).

WHEREFORE, I, Connie Watkins, Appellant pro se in this appeal step pray that all of the members of this Court will grant my Petition for Review for the reasons set out above and in the Petition for Rehearing that is attached hereto.

Respectfully submitted,

CONNIE WATKINS, *Pro Se*

By: /s/ Connie Watkins
Connie Watkins
5404 Mark St
Paragould, AR 72450
(870)239-4166

APPENDIX N

Paragould Daily Press May 25, 2003

1B

Art Notes

from Connie's ART GALLERY

By Connie Watkins

Is it a tree, or a club-toed frog foot?

As research shows that humans, most humans anyway, have a definite psychological attachment to trees, I am comfortable with the following anthropological comparison: "To top a tree is to cut off the hands, and perhaps the arms, when the fingernails are too long." I could have written that, but I didn't, though *I had* observed many once magnificent trees standing maimed, stripped of all dignity in their mature years. I felt embarrassed for them and determined to protect my beloved trees from that fate.

Trees have innocently been sentenced to death by loving homeowners who just intended to control their size. After having its top cut off or being "stubbed" a tree will immediately produce massive regrowth, seemingly a healthy reaction — when in fact, the tree is exhibiting a struggle to breathe and avoid starvation. The large cuts are susceptible to insect and disease infestation, and sunscald. Unsightly branch stubs seldom heal and the decay creeps down to the trunk. With the abundance of fast growing sprouts bursting forth from the bark of the decaying stubbed limb (thus being weakly attached), a once beautiful, natural canopied, *healthy* tree has become a forever altered potential hazard.

Not so innocently utility companies routinely destroy our dwindling tree heritage with the barbaric, outdated line clearance method of topping and citizens are manipulated to believe "utility companies can do whatever they want to do." I have spoken with many people who have requested the utility to "return and remove" the truncated trees that look so grotesque, after line clearance. To a utility company which admittedly claims no friendship with trees that request is the expected payoff.

Some states are aggressively complying with regulations established by the National Arbor Day Foundation. Tennessee runs a close second with California in "tree consciousness" and their cities' utilities are being rewarded for practicing lateral (directional pruning). Dyersburg is one such city.

Jack Golio, System Forester of Dyersburg Electric System, said the electric companies in the six Tennessee Tree Line Cities realize that all scientific

information proves that topping kills trees. "Our utility company has seen a savings of 10 to 15% of the budget per year since adopting *Dr. Shigo's* techniques," he offered.

I asked, "Why, then, do some utilities continue topping, in spite of the ISA, ACRT and others providing clear instructions in directional prunning, offering awards and illustrating of the harm to trees?" "With some cities and utilities it just takes education with others it takes a fatality," he replied, "A citizen has to climb out on one of the structurally compromised, regrowth limbs and get electrocuted."

With Dyersburg's progressive approach to line clearing, a few old trees *were* sacrificed for safety. Jack said it was painful at first, but educational brochures help homeowners with planning for new tree location Only four times in five years has a tree been cut without permission, according to Jack. He believes every utility needs a certified arborist or forester advisor.

Tom Simpson of the Department of Agriculture Division of Forestry, said, "Tennessee is proud of their six National Tree Line USA Utilities." In each of the six, Sevierville, Cleveland, Nashville, Dyersburg, Franklin and Bristol, "trees *are* friends and the utilities do not top."

Pete Rausch, City Forester in Little Rock agrees with Jack, "If we are going to stop topping, it will take educating the property owners, government administrators, tree service and utility companies." The Arkansas Urban Forestry Council's meeting in Eureka Springs - July 17-18 is open to the public. For

more information on the meeting, call Patti Erwin at 479-442-8627. Or, for mountains of information, just search *tree topping* on the web and you will see that I am being *gentle* concerning "tree toppers."

Of course the harsh winter almost equaled line clearance damage, and the aftermath is yet more indiscriminate topping.

I understood some people prefer their own trees be topped, even those far from power lines. And knew the trees I planted that day many long years ago would at some point take on a slightly strange shape to allow for lines, but *topping was* not going to happen to the trees on my property, especially to my beautiful, strategically planted Pin Oaks. But yet, with all the precautions, it did, it did and it did again. Each incident lacked reason *and* authority. I saw firsthand that topping is not prunning, but is a high-maintenance, ugly excuse for reducing tree height and learned why "tree huggers" sit in trees. . .Sometimes it is more than a matter of art, beauty and principle, it is the very *life* of the tree ... the life of our tree heritage.

I will be glad to answer questions or hear comments about this or any other article if you call 239-4166 or 215-0800.

APPENDIX O

HAMILTON, COLBERT & GRAY, LLP
Attorneys at Law
401 West Court Street
P.O. Box 638
Paragould, AR 72451-0638

DONIS B. HAMILTON
ROGER U. COLBERT
ANGELA BOWDEN GRAY

TEL (870) 236-1500
FAX (870) 236-1592

November 16, 2006

Mr. William B. Fisher
PARAGOULD LIGHT & WATER
P.O. Box 9
Paragould, Arkansas 72451-0009

RE: Connie Burns Watkins Matter

Dear Bill:

After our conference on Thursday, the 16th, I reviewed the memos made by the crew which trimmed the trees at Connie Burns Watkins' property on November 9, 2006.

It is obvious that our relationship with Mrs. Watkins does not improve with age. She undoubtedly will be a problem if the trees need to be trimmed again

in the future. The issue is whether to take action now or wait until it is time to do the next trimming.

The advantage to bringing suit now against Mrs. Watkins to have her enjoined and restrained from interfering with our trimming crews is that the experiences of this last summer (particularly the instance when she followed the contract crew into another neighborhood and accosted them) will be fresh and new. On the other hand, since all the trimming that needs to be done has been completed and it will be some time before we will need to do any more, there is no particular urgency about the matter. A judge, when faced with a circumstance that does not require any urgent attention, is likely to put off the decision. Also, before the next tree trimming, Mrs. Watkins may move or the situation may otherwise resolve itself.

I guess, on the whole, it would probably be better to wait until there is some sense of urgency about the matter. Maybe the fight avoided will be a fight won in light of future circumstances.

Very truly yours.

HAMILTON, COLBERT & GRAY, LLP

By: _____
Donis B. Hamilton

DBH: jks

APPENDIX P

PLWC
Paragould Light Water & Cable
P.O. Box 9
Paragould, AR 72451

"One Team, One Goal ... Customer Service"

870-239-7700
Fax: 870-239-7798
www.paragould.com

November 17, 2006

Mr. Donis Hamilton, Attorney
Hamilton, Colbert & Gray, LLP
P. O. Box 638
Paragould, AR 72451

Dear Donis:

Thanks so much for your November 16th letter regarding the Connie Burns Watkins matter. We will take no action at this time and will plan on contacting you prior to doing any work on the trees at Mrs. Watkins' property in the future.

Sincerely,

/s/ Bill
William B. Fisher
WBF/ger

APPENDIX Q

'Connie Watkins' handwritten 'List of Reasons...'
Prepared on the eve of Nov 27 2006

[Fold-out Exhibit, see next page]

NOV 27, 2006

* do not follow Book - mis trees do not fall... book -
* they help
Survey mark
has moved
forward to
indicate the
trees are not
on my property
* return on our
fence row by agreement
* 8:00 morning

* trees not in list
plenty of good clear

APPENDIX R

DEFENDANT'S EXHIBIT	
# 2	BHalsey
	9-16-08

November 28, 2006 Connie Watkins' arrest
Transcript of "Side A Connie Watkins --

POLICE OFFICERS - JAREE JOHNSON AND MIKE TINNIN
PLWC SUPERVISOR BILL MCCARTNEY
RICHARD AND CONNIE WATKINS

	Bill McCartney	(static and inaudible)
7:58	Officer Johnson	They told me that the main power feed for this whole neighborhood is that line there.
	Bill McCartney	Right. Yeah
		(static) (inaudible)

	Bill McCartney	I'm gonna stay back today, (inaudible) they're gonna be (inaudible)
	Officer Johnson	I figured they were. What exactly is (inaudible)?
		(static) (inaudible)
	Bill McCartney	(inaudible) 10' either side of the power line, is a, there's a utility easement there. Her property line stops (inaudible).
	Connie	I'm going to tell you why – CLW does not like me and
7:58:40		right over here - I just took pictures over here at the golf course –the trees are in the branches over there, the branches are in the lines.
	Richard	Hey.
	Officer Johnson	They'll probably get those before (inaudible)
	Richard	They're not going to start before I get this read are they?
	Officer Tinnin	They are gonna start cutting.
	Connie	No, they're not.

Richard	Hey, wait a minute now officer, hey, what, we do not know that they have a right, now wait.
Connie	No, that's our line.
Richard	These trees are on our property

[p.2]

Connie	You all are not listening to our side.
Officer Tinnin	There's nothing I can do- I can listen to your side all day long.
Connie	Why are you here, then?
Officer Tinnin	To make sure you don't get in the way. If you get in the way you'll go to

7:59:17

Connie	Oh, we called you, but you're here to make sure we don't get in the way?
Officer Tinnin	When did you call, Ma'am?
Connie	We called while ago.
Officer Tinnin	We were called last night to come out.
Richard	We called last night, too.

Connie	Well, wait till our officers get here, you know we need someone to speak for the people.
Officer Tinnin	We are your officers. We're their officers.
Connie	No your not, because you don't even know what they're going to cut.
Richard	Ok, let's hold on just a minute. Hey, it sounds to me as though a Pauline Kellems gave them permission to cut these trees.
Connie	She don't even own it now!
Officer Tinnin	Thing is, they're here to cut the trees. I'm trying to (inaudible) speed
Connie	No, you're not, you don't know what they're going to cut.
Officer Tinnin	You need to get, stay out of the way or you're going to jail.

7:59:50

Connie	Let me ask you, no, no.
Richard	Wait a minute officer.

	Connie	I'll go to jail for my trees, anytime. They're here to butcher my trees!
	Officer Johnson	All they're going to do is just TOP them so they won't get in the power lines.
	Connie	No! They are not going to top them! Look what they did to my trees out front, these were beautiful trees, They were. . .
[p.3]		
	Officer Johnson	Ma'am you dropped. . . .
8:00	Connie	I know I dropped my stuff, I'll pick it up. This is what CLW did to my trees. That's why they hate me, because I have resented that ever since.
	Officer Johnson	OK, I understand. . .
	Connie	This is topping. These people do not know how to prune trees.
8:00:15	Officer Johnson	When the ice makes these limbs fall on the line then all these people are going to be out of power.

Connie — Oh shit, look at these trees, get under these lines.

Richard — It's impossible for those to fall on the line. Hey, Connie, hold it just a minute, hold it.

Connie — There's not one thing that's going to cause the power outage here. Just look at these trees. We, we're taken *care* of them!

Richard — Hey uh, Officer, There's a Pauline Kellems that has given them the right to do that!

Connie — They're on our line.

Richard — Why does a Pauline Kellems, if she gave them the right to take down my building would they take down the building?

Officer Tinnin — They have the right to come in, there's 10' from. . .

Richard — Right!

	Officer Tinnin	From that side of the pole to that side of the pole, they have 8 . . . They have legal right to, to come in, we can't stop them.
	Connie	Would you ask them which handbook they're going to abide by? Do you know they're supposed to go by a handbook? Would you ask them which one they are going to go by?
	Officer Tinnin	You can take it up in Civil court later.
	Connie	After it's done! There's no making up for it once they've ruined my trees.
	Officer Johnson	If they do it wrong, you have grounds to take them to civil court.
8:01	Richard	After it's done. I mean, that's just like giving them permission to cut off my head with a chainsaw and then – do something about it later!

[p.4]

	Officer Tinnin	Ok, I'm sorry

	Connie	No, you're not sorry, don't stand there and say stupid words, you're not sorry. You're here to let these murderers do what they want to my trees.
8:01:13		
	Officer Tinnin	Why don't you go get me my ticket book! I'm going to start arresting someone here.
	Richard	Hey uh.
	Connie	You're gonna do what, you're gonna take me to jail!
	Richard	Hey, officer?
	Officer Tinnin	I'm just here to make sure there's no arguments gonna go on and I'm getting the brunt of it. . . and I'm the mediator here.
	Connie	Who called you though? City Light and Water?!
8:01:30	Officer Tinnin	We're through! We're done! We're done! You take her out of here. I'm (inaudible)

	Connie	Jake, You told my husband, you know you told my husband the trees (inaudible) You're not going to cut my trees!
8:01:45		
	Officer Tinnin	You might be interfering with government work!
	Richard	Guys
	Connie	This ain't governmental. . . This is not governmental!
	Richard	Is that why you're here?
	Officer Tinnin	OK, let's, let's go to your house.
8:02	Connie	Oh, you stay away from my house, that's all I need!
	Officer Tinnin	That's, that's fine...
	Richard	Hey.
	Officer	Go ahead and go to your house, no one will (inaudible)
	Connie	Hey, I am not threatening anybody. They are threatening my trees.

[p.5]

	Officer Johnson	You're caus, you're causing a disturbance.
	Officer Tinnin	You need to get out of the way right now.
	Connie	You come here and show me what's in the way of the power lines!
8:02:16		**(8:02:16 Dispatch call begins)**
	Richard	Hey, uh.
	Connie	What do you think's touching the lines?
	Officer	**(To Dispatcher) Looks like we might need a supervisor here.**
8:02:25		
	Connie	**Hey, which ones of you guys are from City Light and Water?**
	Officer Tinnin	(inaudible) handcuffs
		(Dispatcher Forbis radios) "804" "10 4"
	Officer Johnson	Please go back home, go to your house.
	Connie	No!

	Richard	Hey, uh, why can't you at least read this?
	Officer Johnson	It doesn't matter!
	Richard	Hey, wait a minute. What if they came out here and gave you, a, something that says, 'Hey, I'm a dog catcher, I need to get their dog because somebody else signed it?'
8:02:53		
	Connie	Richard call the poli ... call the newspaper, Quick!
	Richard	Ok
	Officer	Sir, go to your house.
8:03	Officer Johnson	(muffled) Do you have anything in your pockets that I need to know about?
	Connie	I have guns. I have needles. I have everything
	Officer Johnson	I need to know if you have anything in your pockets.
	Officer Tinnin	Why don't you go ahead, put her up and take her, that way I'll stay with him.

[p.6]	Officer Johnson	Come on, have a seat in the back of my car. We're gonna take your belongings to your husband. (inaudible)
	Connie	(inaudible)
	Officer Johnson	No, ma'am, you can, you can have your eyeglasses.
8:03:30	Officer Johnson	YOU STRIKE ME ONE MORE TIME YOU'RE GOING in HANDCUFFS
	Connie	Hey, I did not strike you!!
	Officer Johnson	You hit me on the wrist.
	Connie	I was brushing!
	Officer Johnson	(inaudible)
	Connie	Oh, ok,
	Officer Johnson	That's called battery!
	Connie	Oh, augh.
	Officer Johnson	I gave you the chance not to be in handcuffs.
	Connie	I brushed you, I have, now, you are pushing me, is that battery? You are pushing me!!

	Officer Johnson	I'm not pushing you.
	Connie	I did not strike you!! How dare you lie.
	Officer Johnson	Ma'am, I'm not pushing you.
	Connie	I did not strike you. You, I guess you have no conscious.
8:04:07		**Officer Tinnin to dispatcher (8:04:07 Dispatch call begins)**
	Officer Johnson	I'm going to doublelock those cuffs so they don't tighten up on you.
	Officer Tinnin	**(To Dispatcher Forbis) Right now we're 15 1-2.**
	Connie	You'd better not, You'd better not. You better not. . . Don't murder my trees!
	Officer Johnson	Have a seat. Watch your head getting in. Watch your feet, ma'am.
8:04:30		
	Connie	Watch yours.

APPENDIX S

DEFENDANT'S EXHIBIT	
9	9-16-08 BHalsey

NOV 28 2006
POLICE/DISPATCH & POLICE/POLICE RADIO TRANSCRIPTS AND TIMES

Emphasis is on statements that are also heard on Officer Johnson's recoding of the event

15 sec	7:50:37	Officer Johnson	36 (through or Paragould)
		Dispatch Forbis	go ahead 36
		Officer Johnson	497
		Dispatch Forbis	10 4
31 sec	7:50:56	Officer Johnson	Do you see 'em down there Mike?

		Officer Tinnin	No, they're not here yet.
		Officer Johnson	Well, I'm gonna back up and get out of the way, cause we can't all fit down here.
			21 to (92 or 97) 400 10 4 21
13 sec	7:54:25	Officer Johnson	Here comes bucket truck, Mike.
34 sec	**8:02:16**	(inaudible)	
		Dispatch Forbis	22 go ahead
		Officer	**Looks like we might need a supervisor here.**
		Connie Watkins	**Hey, which ones of you guys are from City Light and**
		Dispatcher	**10 4 804**
		Officer Martin	10 4

25 sec	**8:04:07**	**Officer Tinnin**	**Paragould**
		Dispatch Forbis	go ahead
		Officer Tinnin	**Right now we're 15 1 2**
		Dispatch Forbis	10 4 sir
20 sec	8:07:59	Officer Johnson	36 Paragould
		Dispatcher (fe)	Go ahead 36
		Officer Johnson	15 1 time 81
		Dispatcher (fe)	10 4

APPENDIX T

DEFENDANT'S EXHIBIT	
10	9-16-08
	BHalsey

Radio Log Report

Report Filters:
Date: 11/28/2006 11/28/2006
Time: 7:00 - 9:00
Incident:
ID No:
License:
Lic. State:

Date	*Time*	*Agency* *Code* *Description* *Signal* *Description* *Location* *Additional Notes*
*11/28/2006	7:50	0- PATROL 6 BUSY
11/28/2006	7:50	0- PATROL 6 BUSY
11/28/2006	7:51	PGPD 2006110976 97 ARRIVED 401 GWENDINE AND WIRT P
11/28/2006	7:51	PGPD 2006110976 97 ARRIVED 401 GWENDINE AND WIRT P
11/28/2006	7:51	0- PATROL 8 IN SERVICE
11/28/2006	7:51	0- PATROL LOG RADIO LOG ITEM
11/28/2006	7:55	PGPD 2006110976 51 CHECK FOR WANTED 401 GWENDINE AND WIRT P

License No. Notes	*Equip. Agency Name State*	*Equip. No.*	
	PGPD JOHNSON AR	836	JAREE
	PGPD TINNIN AR	822	MIKE
	PGPD ADAMS AR	821	MAX
	PGPD HAILEY AR	849	JACK
	PGPD BOLING AR	827	JASON
	PGPD BOLING AR	827	JASON
M2103	PGPD ADAMS AR	821	MAX

Date	*Time*	*Agency* *Code* *Signal* *Location* *Additional Notes*	*Description* *Description*
11/28/2006	7:57	0- CID 81 OUT AT PD	
*11/28/2006	8:04	0- PATROL 15 IN CUSTODY 5404 MARK ST	
11/28/2006	8:04	2006110977 DISP 426 5404 MARK ST	
11/28/2006	8:04	PGPD 2006110977 76 426 5404 MARK ST	

License No. Notes	*Equip. Agency Name State*	*Equip. No.*	
	PGPD ADDISON AR	816	MICHAEL
	PGPD TINNIN AR	822	MIKE
	PGPD TINNIN AR	822	MIKE
	PGPD TINNIN AR	822	MIKE

APPENDIX U

PARAGOULD POLICE DEPARTMENT
INCIDENT REPORT
NUMBER: 2006110977 **Page 1**

Signal: 426

Received: 11/28/2006 08:04
Dispatched: 11/28/2006 08:04
Enroute:
Arrived: 11/28/2006 08:04
Completed: 11/28/2006 09:50

Incident No: 2006110977
Location: 5404 MARK ST PARAGOULD
Occurrence: 11/28/2006 08:04

Status Date/Time: 11/28/2006 09:51

Status: CLEARED BY ARREST

Clearance Reason/Date:

Dispatch
Notes: 70281 11/28/2006 8:05:20: License: AR
Notes:
70281 11/28/2006 8:05:08:REQUESTS CIVIL STANDBY

********* COMPLAINANT(S) *********

ID # 20063553	FISHER, BILL	Home/Business (870) 239-7700 (870) 000-0000
	0 JONES RD, PARAGOULD AR 0000	(870) 000-0000

TYPE OF INDIVIDUAL I

************ OFFENDER ************

ID # 20044563	WATKINS, CONNIE ANNETTE	Home/Business (870) 239-4166 (870) 215-0800 (870) 000-0000
	5404 MARK ST , PARAGOULD AR 72450	

TYPE OF INDIVIDUAL I

HATE/BIAS MOTIVATED: NONE

CLOTHING: NORMAL

OFFENDER USED:NOT APPLICABLE

OFFENSE 1	**OFFENSE (RS #)** 5-71-207	**ATT/COMP C**
	DISORDERLY CONDUCT	

********** VICTIM(S) **********

ID # 20041049	SOCIETY, 0, PARAGOULD AR 00000000	Home/Business (870) 000-0000 (870) 000-0000 (870) 000-0000

TYPE OF INDIVIDUAL S

INJURY TYPE(S): ☒None ☐Broken Bones ☐Internal ☐Lacerations ☐Minor ☐Major ☐Teeth ☐Unconscious

Offender ID: 20044563	Offender Seq: 1	Relationship: VICTIM WAS OTHERWISE KNOWN

***** ASSIGNED OFFICER *******

TINNIN, MIKE

***** ASSISTING OFFICER ******

JOHNSON, JAREE
MARTIN, MONTY

***** DISPATCHER(S) ******

FORBIS, RALPH L

***** CALL RECEIVED BY ******

FORBIS, RALPH L

APPENDIX V

PARAGOULD POLICE DEPARTMENT
INCIDENT NUMBER: 2006110977

Agency: PGPD
Incident No: 2006110977

Author: TINNIN, MIKE
Title: CONNIE WATKINS-DISORDERLY CONDUCT

Report Type: I

Received call from Bill Fisher at Paragould Light, Water, and Cable. Fisher requested a civil stand by for the property behind 5404 Mark St. PLWC and Crafton Tree Service were going to trim trees off the power line at that location. Apparently they had previous problems with the resident of 5404 Mark St., Connie Watkins. Arrived on scene was met by all parties involved. The Watkins were given copies of paperwork from PLWC representatives. The Watkins did not want the trees trimmed. Mrs. Watkins became agitated and began to yell loudly. We attempted to talk to both she and Mr. Watkins and explain the situation. Mrs. Watkins would not listen, and continued to shout at us and Crafton Tree Service employees. Mrs. Watkins was told multiple times that she would be cited if she did not calm down. Mrs. Crafton said she would go to jail for her trees anytime and continued to shout. Mrs. Watkins was placed under arrest for Disorderly Conduct. While Officer Johnson was walking Mrs. Watkins to the patrol vehicle, Mrs.

Watkins swung her arm back and struck Officer Johnson on the left wrist. At that time Mrs. Watkins was placed in hand cuffs. Mrs. Watkins was transported to PPD and Cited into court for Jan. 8th at 13:30.

DEFENDANT'S EXHIBIT	
#3	9-16-08
	BHalsey

COPY

APPENDIX W

DBH:jks
12/4/06
3

IN THE CIRCUIT COURT OF GREENE COUNTY, ARKANSAS
CIVIL DIVISION

NO. CIV-2006-335(H)

[Filed December 6, 2006]

CITY OF PARAGOULD, ARKANSAS ACTING BY AND THROUGH THE PARAGOULD LIGHT & WATER COMMISSION PLAINTIFF	)
VS.	)
CONNIE BURNS WATKINS FORMERLY KNOWN AS CONNIE MANERS OR CONNIE T.M. BURNS and RICHARD WATKINS, her husband DEFENDANTS	)

PETITION AND COMPLAINT

Comes petitioner, Paragould Light & Water Commission, by and through its attorneys, Hamilton,

Colbert & Gray, LLP, and, for its complaint against defendants herein and states:

1. The petitioner is an agency of the City of Paragould, Arkansas, and charged with the management, operation and maintenance of the municipally owned electrical distribution system in the City of Paragould, Arkansas, by virtue of Act 562 of 1953, Ordinance 625 of 1953 and Ordinance 84-7 of 1984. The defendants, Connie Burns Watkins, who was formerly known as Connie Maners or Connie T.M. Burns and Richard Watkins, her husband, are the residents of 5404 Mark Street, Paragould, Arkansas. The lands hereinafter described are located in Greene County, Arkansas, and the occurrences described in this petition occurred in Greene County, Arkansas. This court has jurisdiction and venue of this cause.

2. The defendant, Connie Burns Watkins, also known as Connie Maners or Connie T.M. Burns, is the owner of the

* * *

[p.36]

crew of the petitioner,' stating what measures would have resulted in a satisfactory job.

ANSWER: See answer to Interrogatory No. 1.

INTERROGATORY NO. 53: Describe in detail any of PLWC's line clearance policies or procedures relating or not relating to the defendant and/or her property line that were made known to any entities (naming them) on, before or after November 28 2006,

including the defendant, the utility board, mayor and Chief of Police, etc.

ANSWER: Plaintiff [PLWC] is unaware of any discussion of line, clearance policies or procedures with the mayor or chief of police. On or about November 27, 2006, William B. Fisher, General Manager and CEO of Paragould Light & Water Commission, called the Mayor and/or Chief of Police and asked that police officers be made available for a "civil standby" near the residence of the defendant the next morning so as to have an independent witness to the events taking place and, if necessary, keep and maintain the peace.

INTERROGATORY NO. 54: Describe in detail specific action(s), giving names, ages and addresses, exact words and actions of the defendant that created the need for law enforcement's protection and assistance for the petitioner's officials, crew and contractors on/or south of the defendant's property on November 28, 2006.

ANSWER: See answer to Interrogatory Nos. 1 and 53.

* * *

APPENDIX X

Connie Watkins
5404 Mark Street

November 21, 2007

Kimberly Dale Attorney
414 W Court Street
Paragould, Ar 72450

Dear Ms. Dale,

This letter comes because I have been trying to get an appointment with you for a while.

I have lived in this town since the age of seven. I have lived my life in accordance with the law, not in opposition to it. I know there are laws that are supposed to help me now.

I was arrested on Nov 28, 2006. Police officers' recordings on that day show that I was not guilty of disorderly conduct. I was not allowed to make a statement for the record. Not allowed to speak with the Chief of Police about the incident. I entreated officers to review the tape and to give me a copy. I was given a partial copy. I have obtained additional clearing evidence through the FOIA. **It is available to any prospective prosecutor.**

Yet I was prosecuted and convicted. My lawyer would not submit the evidence on the table, though I had presented him with all the information months before the court date. The judge took the case 'under advisement' and rendered a written verdict based solely on the lies of police officers and two other witnesses put on the stand by prosecutors Gazaway and Hamilton.

The police have solid proof that their officers lied under oath. I have solid proof. They have failed to present and/or destroyed evidence that is favorable to me and have violated due process rights

The tape sent with the file to circuit court left off about 2 minutes of tape that shows my truth and officers' lies. I did no more than exercise a First Amendment right when I tried to reason with officers in their enforcement of a false survey on the behalf of PLWC.

I made a complaint to the State Surveyor's office and the surveyor of the false 'set monuments' has now removed his stakes! His survey was the basis for 'legal papers' that were thrust into my husband's chest that morning when he asked, "By what authority are you doing this?" And the false survey along with an easement based on the false survey was accepted by the officers as per their testimony on July 16, 2007 that PLWC had the 'required paperwork' on Nov 28, 2006.

I am trying to regain some of the rights that have been taken from me. Also trying to prevent another prosecutor from proceeding in a baseless prosecution because I know that the duty of disclosure is not limited to evidence in the actual possession of the

prosecutor, but it extends to evidence in the possession of the entire prosecution team, which includes investigative and other government agencies. Kyles v. Whitley U.S.

I know it is established that a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment and that it is the same result whether or not the false evidence was solicited, when it is allowed to go uncorrected. Mooney v. Holohan U. S. and Alcorta v. Texas U. S.

I want the liars who secured my conviction for PLWC prosecuted. What should I do?

Connie Watkins

Original received
by R. Price 11/21/07
10:33am.

APPENDIX Y

Connie Watkins
5404 Mark Street

November 24, 2007

Kimberly Dale Attorney
414 W Court Street
Paragould, Ar 72450

Dear Ms. Dale,

Thank you for your call and the offer to get this information to the district prosecutor.

I hope for a quick transfer and immediate review.

I will be getting investigative reporting started soon, if this is not successful. I have protected the people who caused me to be convicted, long enough, with my silence.

I am submitting the following items in listed order:

11-27-06	Connie Watkins' call to the PPD	1 pg
11-28-06	Richard Watkins' call to the PPD	1 pg
11-28-06	Police/Police calls and Police/Dispatch calls (6)	1 pg

11-28-06	Police Incident Report	1 pg
11-28-06	Arrest Report	3 pgs
11-28-06	Transcript of Officer Jaree Johnson's recording	8 pgs
11-28-06	Transcript of portion left off tape sent to Circuit Court	3 pgs

Officer Jaree Johnson	lies under oath on July 16 2007 and proof	7 pgs
Officer Mike Tinnin	lies under oath on July 16 2007 and proof	4 pgs + 2 pgs*
Jake Crafton	lies under oath on July 16 2007 and proof	2 pgs
CEO Bill Fisher -	Two lies under oath on July 16 2007 and proof	12 pgs

Copy of article in the Paragould Daily Press repeating some of the lies told under oath on July 16 2007 in announcing my conviction	1 pg
Transcript of Trial Hearing July 16, 2007	115 pgs

I request the return of the July 16 Transcript at some point.

Thank You for your consideration,

Connie Watkins 2394166 morning + evening

Connie Watkins

* These last two pages attached are reports written by Officer Tinnin on situations having nothing to do with me and they do contain vile language.

APPENDIX Z

PLAINTIFF'S EXHIBIT
2
9/16/08 BHalsey

PARAGOULD POLICE DEPARTMENT
CRIMINAL INVESTIGATION DIVISION
101 NORTH THIRD AND 1/2 STREET
PARAGOULD, AR 72450

INTERVIEW CONDUCTED BY:

INTERVIEWING:

CASE FILE #:

DATE/TIME:

Mrs. Watkins:	(Unintelligible) like that ever since.
Officer Johnson:	Okay, I understand.
Mrs. Watkins:	This is copies.
Officer Johnson:	When the ice comes and these limbs fall on the lines then all these people are going to be out of power.

Mrs. Watkins: (Unintelligible)

Mr. Watkins: (Unintelligible)

Mrs. Watkins: Oh shit look at these trees, do you get under these lines. There is not one thing that is going to cause a power outage here. Just look at these trees. We have, we were taking care of them.

Mr. Watkins: Hey uh, Officer.

Officer Johnson: Yes.

Mr. Watkins: There is a Pauline Kellims that has given them the right to do that. If Pauline Kellims gave them the right to take down my building would they take down my building.

Mrs. Watkins: (Unintelligible)

Officer Tinnin: They have to right to come either two feet from.

Mr. Watkins: From right.

Officer Tinnin: This side of the pole and that side of the pole but they, they have legal rights to

[p.2] POCKET RECORDER OF OFFICER JAREE JOHNSON

Come in and, do what needs to be done.

Mrs. Watkins: Would, would, would you ask him which handbook their going by. You know they are supposed to go by a handbook. Would you ask them which one they are going to go by?

Officer Tinnin: This is something you're going to have to take up with the city.

Mrs. Watkins: After it's done there's not taking up once they've ruin my trees.

Officer Johnson: (Unintelligible) you have the right to take them to civil court.

Mr. Watkins: After it's done, I mean, that's just like them giving permission, tell them to get the chainsaw and then.

Officer Tinnin: I'm sorry.

Mr. Watkins: And then to do something about it later.

Mrs. Watkins: No you're not sorry. Don't stand there and say stupid words you're not sorry. You're here to let these murderers do what they want to (unintelligible).

Officer Tinnin: Why don't you go get me my ticket book. I'm going to start arresting folks.

Mrs. Watkins: You're going to do anything, you're going to take me to jail.

Mr. Watkins: Hey officer.

Officer Tinnin: I'm just here to make sure there is no arguments that go on and I am getting the brunt of it. I'm the just the mediator here.

Mr. Watkins: Let me, let me ask this question.

Mrs. Watkins: Who called you though, City Light and Water?

Officer Tinnin: Sir, sir, sir we're done, we're done. You get her out of here.

Mrs. Watkins: (Unintelligible) You're not going to cut my trees. This ain't governmental. This is not governmental.

Officer Tinnin: Let's go to your house and.

Mrs. Watkins: Oh you stay away from my house. That's all I need.

Officer Tinnin: That's, that's fine but just go ahead and go to your house that way (unintelligible)

[p.3]

Mrs. Watkins: Hey I am not threatening anybody here. They are threatening my trees.

Officer Johnson: You're causing, you're causing a disturbance.

Officer Tinnin: You need to get out of the way right now so they can start.

Mrs. Watkins: You come here and show me what's in the way of the power lines.

Officer Tinnin: 22 Paragould.

Mrs. Watkins: You murderers.

Mr. Watkins: Hey uh.

Dispatch: Go ahead.

Mrs. Watkins: Which one of those is touching the lines? Hey, which one of you guys is from City Light and Water.

Officer Tinnin: Ma'am please. Were going to put handcuffs on you in just a second.

Officer Johnson: Please go back to your home.

Officer Tinnin: Go to your house.

Mrs. Watkins: (Scream) No!

Mr. Watkins: Hey uh, why can't you at least leave this.

Officer Johnson: It doesn't matter.

Mr. Watkins: Wait a minute but, hey what if they came out here and gave you a, a, a something that says hey I'm the dog catcher I need to get they're dog because somebody else signed it.

Mrs. Watkins: Hey Richard call the, call the newspaper quick.

Mr. Watkins: Okay.

Officer Tinnin: (Unintelligible) Go to your house or your going to (unintelligible)

Mrs. Watkins: I have guns, I have needles, I have everything.

Officer Johnson: I was just asking ma'am. I was just asking if you have anything in your pockets.

Officer Tinnin: You can go ahead up there and take her and that I can stay here with them.

[p.4]

Officer Johnson: Just have a seat in the back of my car. You can take your belongings to your husband.

Mrs. Watkins: (Unintelligible)

Officer Johnson: No ma'am, you can have your eye glasses. You strike me one more time you're going in handcuffs.

Mrs. Watkins: Hey, I did not strike you.

Officer Johnson: You hit me on the wrist. Turn around.

Mrs. Watkins: I was touching. Oh okay.

Officer Tinnin: That's called battery.

Mrs. Watkins: Oh yeah.

Officer Johnson: I gave you a chance to not be in handcuffs.

Mrs Watkins: Well I brushed you. I had. Now you are pushing me is that battery? You are pushing me.

Officer Johnson: I am not pushing you ma'am.

Mrs. Watkins: I did not strike you, how dare you lie.

Officer Johnson: Ma'am I am not pushing you.

Mrs. Watkins: I did not strike you. You, I wish I had (Unintelligible).

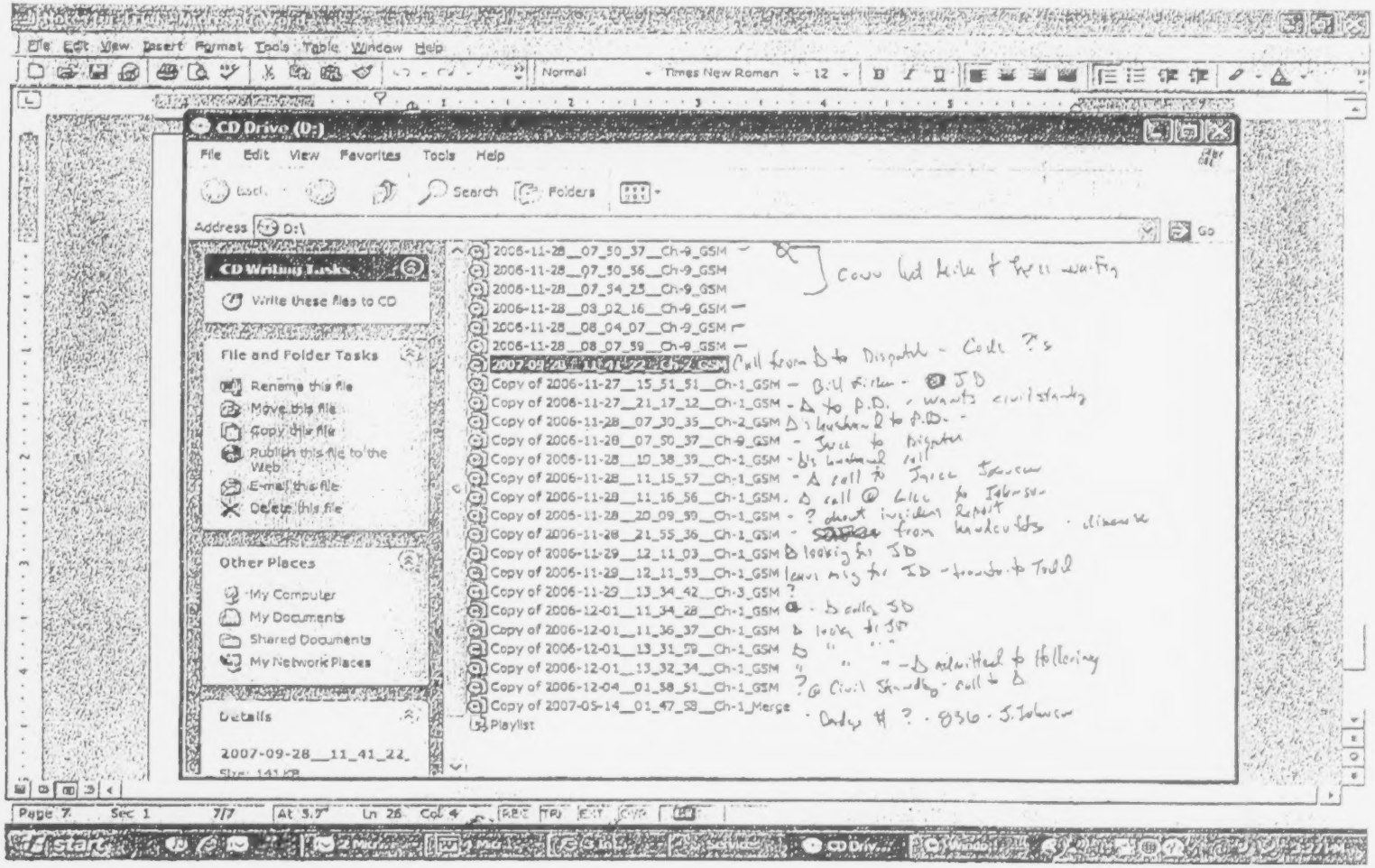
Officer Johnson: Let me double lock those cuffs so they don't tighten up on you.

Officer Tinnin:	(On radio) Right now we're 15 one time.
Mrs. Watkins:	You better not, you better not, you better not, don't bother my trees.
Officer Johnson:	Have a seat ma'am. Watch your head getting in. Thank you. Watch your feet ma'am.
Mrs. Watkins:	Watch yours.

APPENDIX AA

FOIA Request September 30, 2009
No. 20

[Fold-out Exhibit, see next 2 pages]



FOIA Request September 30, 2009

No. 20

FOIA Request September 30, 2009

No. 20

APPENDIX AB

(This was included in the 'discovery' papers handed to defense counsel by Prosecutor Kimberly Dale on September 15, 2008)

[Fax line] Jun 09 2008 11:38AM HAMILILTON#COLBERT#&#SCUR 8702361592 p.2

Daily Press
June 4, 2008
p. 4

Letters to the editor

Reader chides Daily Press over issue with PLWC

Dear editor:

Editorials dated Oct. 28, 2007 and Jan. 16, 2008 were packed with – indignation at the arrest of innocent citizens, pronouncement of specific Constitutional violations, sharp criticism of police (Miami and New York), firm stances on officer abuse of power, and suggestions that officers had ulterior motives and were up to "something untoward." Elected officials at all levels were called upon to intervene, because "[t]he trampling of anyone's Constitutional rights in the name of public safety – or any other reason – is intolerable."

In the first week of May I submitted a "letter" noting protections secured by the 14th Amendment and parallels with each point of the mentioned editorials – a matter of concerning Paragould.

In the days since, I have been told that the letter was too long for publication, we would have to buy an ad, that the ad would not run due to the names of entities and police officers, and that "telling what had happened to me by the [local] government was objectionable," therefore, even a shorter letter without names would not be published. I asked about the rules governing the newspaper's decision, and was told "there are none." So I guess I can't ask that they be changed.

I have read gallant and honorable intentions in the editorials, pledges to hold local government accountable, hold everyone in the public eye to a high degree of accountability, be a forum for Paragould, devote this newspaper to the interests of the people, hold truth in high regard, report the news without fear or favor, report the news accurately and completely, use the law to everyone's advantage, use it to the detriment of those who try to get around the law."

Editorials have contained noble ideas – "Law enforcement officers should not be exempt from the law." "Accountability is for everyone, even law enforcement officers." "...when we learn things in government are not going the way they are designed to go, it is our duty to you the readers to bring them into the open.'

Thought provoking questions have been asked – "Who is minding the store? And about what else

should we be concerned?" "What about the principle of equal protection under the law, codified in the federal Constitution?" "Does the Constitution apply to everyone?" – or, was it just rhetoric?

While being arrested, I asked my husband to call, because such things happening to a citizen should not be kept secret. I told the reporter that the police had done illegal things that day, and had made false statements about me. The reporter did not seek out the arrest tape, to hear that my words had reason and purpose to try to get the officers to investigate the situation, but instead she repeated the false, damaging police report in her 'news story' and misquoted my words.

The truth, in its entirety, is on the police tape (a copy not having had erasure) and police/dispatch calls.' But my conviction was prominent in the August 5, 2007 publication and again, the accepted lies of witnesses, printed.

The reporting of abuse of authority in other towns and states, is an opportunity to evoke thought – 'Activity by government officials like that undertaken against Jeff Weinsier is exactly why the Founding Fathers put the 1st Amendment in place... ' But, I have been told that my need to inform the public is a wish on 'air my dirty laundry'. The Oct. 28 editorial referenced the Gestapo. Besides arresting people falsely, didn't they also quash truth and information about governmental wrongs?

Our city is not safe until EACH CITIZEN has EQUAL protection from illegal police intrusion. FREEDOM, a word that can swell a chest with

gratitude and pride, is just seven letters to those from whom it has been removed.

Connie Watkins
Paragould

APPENDIX AC

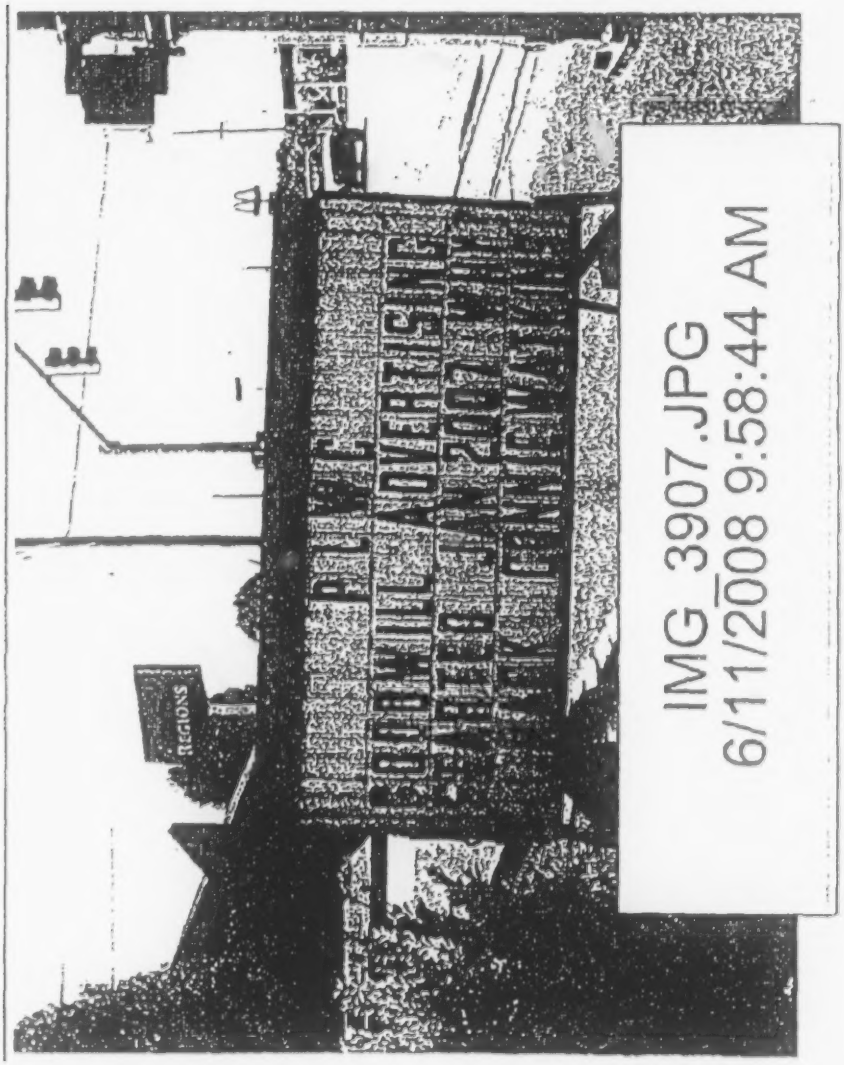
Paragould Light Water & Cable
"One Team, One Goal...Customer Service"

1901 Jones Road
P.O. Box 9
Paragould, AR 72451
www.paragould.com

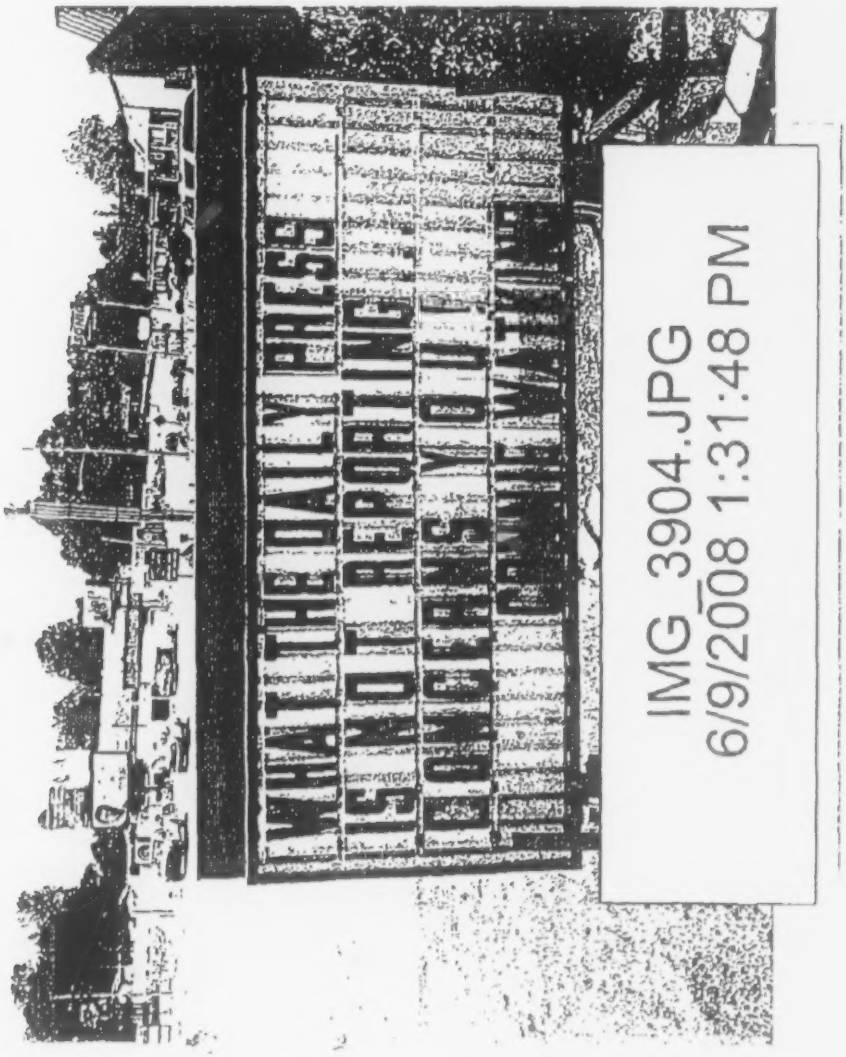
Darrell Phillips
Assistant General Manager

Business: 870.239.7700
Fax: 870.239.7708
Cell: 870.476.7714
Email: dphillips@paragould.com

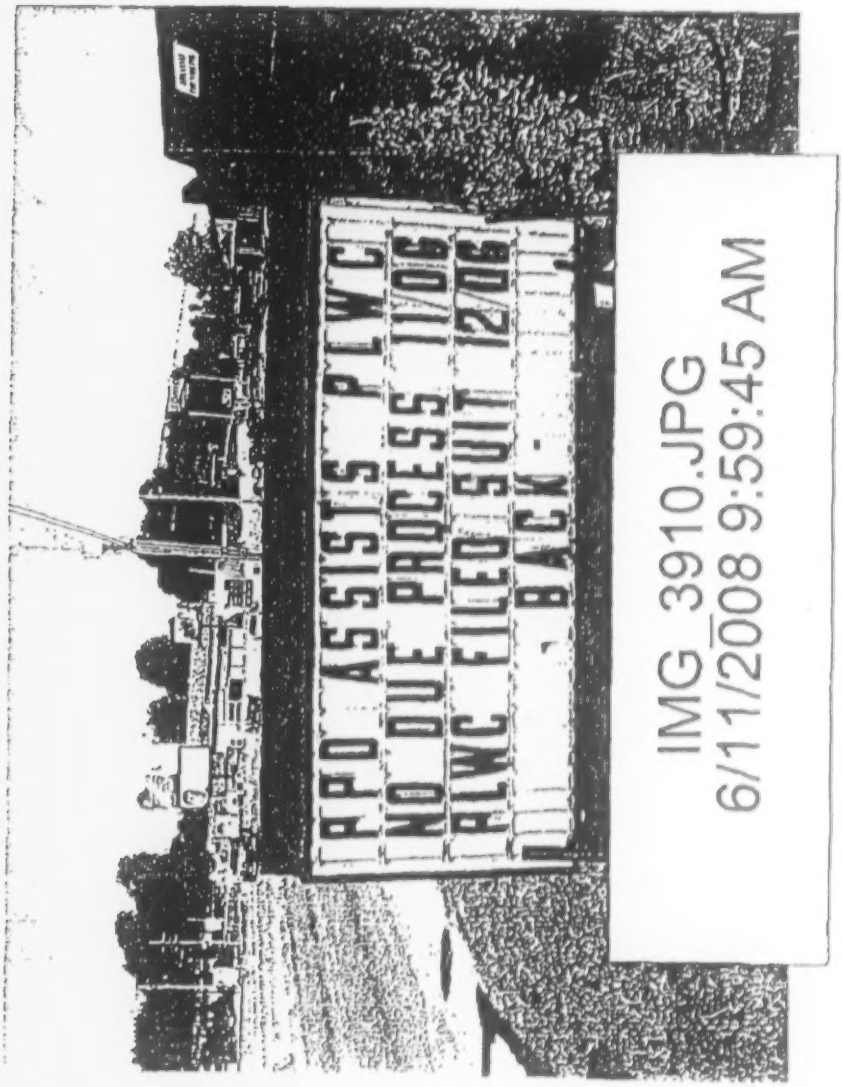
FOIA Request September 30, 2009
No. 1



FOIA Request September 30, 2009
No. 4



FOIA Request September 30, 2009
No. 5



APPENDIX AD

Four well pruned trees in the Watkins' fence row and on their lot on the evening of Novembr 27, 2006.

The trees were directionally pruned according to ISA national standards. To the left of the cedar is an elm tree and to the right of the cedar, the one with the two limbs that 'appear' to be above the lowest utility line, is a hickory tree and the tree to the right is a slow growing oak tree.

APPENDIX AE

Bill McCartney's Witness Statement

[Fold out Exhibit, see next page]

WITNESS STATEMENT
(Please Print)

Name: Bill McCartney Address: 1601 S 39th

City Paragould AR DOB 5/15/52 Phone: 239 7423

Place of Employment: Self Bus. Ph: 239 1153

Describe in your own words what happened: On Sunday morning the 23rd of November at approx. four officers of the Paragould Police Dept arrest Mrs Watkins in the rear of 3802 Mockingbird Ln.

After taking much verbal and physical abuse Mrs Watkins was arrested and placed in the rear of the police car.

I felt the officers were very professional and conducted themselves in a very business like manner.

Bill McCartney

Signed: Bill McCartney Date: 11-25-08